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Ontario. Legislative Assembly.
Standing Committee on Regula-
tions and Private Bills.

Debates

1 - 8

1989



STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS
ORGANIZATION

WEDNESDAY, 10 MAY 1989

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no kardex for 1989

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

CHAIRMAN: Furlong, Allan W. (Durham Centre L)

VICE-CHAIRMAN: Sola, John (Mississauga East L)

Black, Kenneth H. (Muskoka-Georgian Bay L)

Keyes, Kenneth A. (Kingston and The Islands L)

Leone, Laureano (Downsview L)

Mackenzie, Bob (Hamilton East NDP)

McCague, George R. (Simcoe West PC)

Miclash, Frank (Kenora L)

Morin-Strom, Karl E. (Sault Ste. Marie NDP)

Pollock, Jim (Hastings-Peterborough PC)

Smith, David W. (Lambton L)

Clerk: Freedman, Lisa

Assistant Clerk: Manikel, Tannis

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday, 10 May 1989

The committee met at 1017 in committee room 1.

ORGANIZATION

Assistant Clerk: Good morning, honourable members. It is my duty to call upon you to elect a chairman. Are there any nominations?

Mr McCague: I nominate Mr Furlong.

Assistant Clerk: Mr Furlong has been nominated. Are there any further nominations? Seeing none, I ask Mr Furlong to please take the chair.

The Chairman: Thank you. The second item on the agenda is the election of a vice-chairman.

Mr Smith: I move that John Sola be vice-chairman.

The Chairman: Mr Sola has been nominated vice-chairman. Are there any further nominations? Motion to close nominations? Agreed. Thank you, Mr Sola.

The next item on the agenda is a motion regarding Hansard. I understand that a motion is required.

Mr Smith: I move that unless otherwise ordered a transcript of all committee hearings be made.

Motion agreed to.

The Chairman: The next item is the approval of the budget for 1989-90.

Mr McCague: This includes travel to Oshawa, does it?

The Chairman: I am sure we could have one or two important meetings in Oshawa. It was interesting that this year was the first time in recent memory that a committee did sit in Oshawa. Things are looking up.

Mr McCague: Can I just ask if this is usual?

The Chairman: Perhaps Tannis can answer those questions.

Assistant Clerk: Basically, it is a fairly small budget as budgets go. The biggest part of it is the reports. I am anticipating that we will have a number of reports on regulations. It is lower than last year's, because last year we went for a supplementary budget because we were printing the information circular on private bills. The other thing we had in last year's budget was money for legislative counsel. We had to go for a supplementary again on that, because the board did not approve us having outside counsel, and we had to put in for what we had already paid him, because we were doing public hearings on the regulations at the beginning of the year. He was working for the committee without the budget having been approved.

We are down from last year, actually. But I think this should cover most everything. I cannot see anything, unless we decide to take a trip. I did not see anything coming, so I did not put in for it.

The Chairman: Are there any other questions?

Mr Morin-Strom: Has this committee ever travelled?

Assistant Clerk: In either 1983 or 1985 the committee travelled to Washington and Ottawa to study their regulation systems.

The Chairman: Karl, do you have a further question?

Mr Morin-Strom: You had said you were doing some studies on regulations expected later in the year. Is that totally internal? What does that imply?

Assistant Clerk: There is a copy of the draft report in front of you and that is what we will be looking at now. I have given it to you now with the hope that we will consider it next week. This committee reviews all the regulations filed in a given calendar year. The report you have there is for 1987. The researchers are working on it and we hope that later in this year, when the House comes back in October, we will have another report on the 1988 regulations and possibly a partial report on the 1989 regulations. Those are the reports I was talking about.

Mr McCague: I think it might be useful, though, for Karl to review a little what it is you are talking about. You have this report, but there is also another report before the Legislature that has not been debated yet, and that is where the legal fees came in. Maybe somebody would just summarize that for us.

The Chairman: I will do the best I can. In 1987-88, this committee did an extensive review of the processes of regulation. It was all-encompassing. There were witnesses who came and people who came from Ottawa. There was sort of a wide base of consultation which resulted in a report which was tabled in the Legislature in 1988. That report has received government response. There were I forget how many recommendations, but a lot of them. It has received government response, and it is a report that we will be looking at again some time in this coming year.

We also have the report on regulations. The research staff review all the regulations passed by government. They review them for jurisdiction, accuracy and any errors they find. In a lot of cases, it may just be typing errors. They prepare a report on regulations that are passed by the government. There is a backlog, I guess. They fell behind and that is why the first report we may be looking at will be the regulations for 1987. They are working on 1988 and 1989 now.

I do not want to read this. Karl, if you would like, there is sort of a summary here of what the regulations are all about and what we will be doing. To distinguish that, I do not think we would be revisiting the kind of report that was done in 1988, subject to the committee's wishes, of course. The reports we are talking about now are the basic, ongoing regulations that are made annually.

Mr McCague: Maybe for Karl's information, Tannis might get the report of the committee that was done, plus the response from the Attorney

General on the points we raised. I guess it is fair to say that we are now waiting for an opportunity to debate the report in the House. Is that correct?

The Chairman: I do not know. I guess we will have to discuss it here first. We will probably have to debate the government response to it and then whatever action we want to take as a result of that.

Assistant Clerk: I am not sure it is on Orders and Notices. I do not think it was carried forward.

Mr McCague: I would think that aside from the fact that we do have an Attorney General's response, and I know Tannis is looking to see if it is still on Orders and Notices—

Interjection: It is not.

Mr McCague: It is not on Orders and Notices? I guess we will have to try to get it back on; otherwise, Mr Fleet may have a heart attack.

The Chairman: Mr Fleet has been nudging me daily. It would be the intention again, subject to the committee's wishes, to debate that report and the response by the Attorney General at some meeting. I think if we get into a position where we do not have bills to deal with, we can take one morning and review that. That would be subject to the direction of the committee.

Is there a motion to approve the budget?

Mr Keyes: I so move.

Motion agreed to.

The Chairman: I am sorry; for those of you who do not already know, Tannis is not officially the clerk of this committee. We have a new clerk, Lisa Freedman. Tannis is going to be around to assist for the next little while. Lisa, we would like to welcome you to the committee. We look forward to working with you as we get about our business. You will get to know most of the members and, as we indicated to you in jest on the way through, we are here to make your life as miserable as we possibly can. Welcome to the committee.

The last item on the agenda for this morning has to do with, I guess, the fact that we should discuss a procedure on private bills. What has happened is that a bill went through this committee and was recommended to the House. A bill was sent out for fees, but the gentleman has refused to pay them. We have a problem. I guess we should probably find out what we can do legally and, second, what kind of precedent it sets if we do not do anything about it.

Perhaps I could ask Tannis to give us some background on what happened. What we intend to do is discuss it this morning and invite the gentleman involved to come before the committee at a subsequent meeting so that he can offer his side of the story and the committee can then make a decision. But we felt it would be a good idea if the committee was aware of the problem. We might be thinking about it between now and the time we meet again. As I say, we will give the gentleman an opportunity to plead his case before us.

Mr Keyes: Is this the one and only time that such an incident has happened, or is this a frequent thing and what we are doing now will set a precedent?

The Chairman: I believe this would be precedent-setting. Tannis, you can carry it from there.

Assistant Clerk: I will start by giving you a bit of history on what is happening here. Earlier, the Clerk's office in room 110 looked after the private bills and all the money involved in them, the filing fee of \$150 and the cost of printing, which can vary. This one is \$517. It can vary up to several thousand dollars.

Then it was decided a few years ago that the committee clerk could handle the whole private bill process, so I am now involved in doing everything on the private bills.

We have had cases in the past where people do not really want to pay the private bills. We have been luckier in those cases because the parliamentary agent or the applicant was a lawyer, and by going through the law society, you are able to get them to pay. We have not before gone the step of asking that a bill be rescinded, so it will be precedent-setting.

As I point out in the memo, my concern is that, particularly with the revivals---this is a mining company---it seems to be quite an interrelated community and they all seem to know what is going on, so if one of them finds out that we are not going to push to have the fees or the printing costs collected, we will have more problems with people not paying the printing costs.

For an example, I was getting a call on another private bill, and the man was not sure that he could pay it. When I said that we were considering doing this on another private bill, he had the cheque in to me within days, so it does create a strong bargaining tool, if you like, for me.

I do not know exactly how these were handled in the past or if there were as many. In some ways, I think we are having a lot of revivals, and that depends on the state of the economy. I think it is important that we get the message that we are demanding payment.

There is a problem, and we have not been able to work it out administratively for the Legislative Assembly to go to a collection agency to have these done that way. This was the only solution we could come up with.

The Chairman: Are there any questions of Tannis?

Mr Morin-Strom: Is there a legislative authority for charging costs for what I guess is our responsibility in terms of passing legislation we think is appropriate? Is this just being done on the basis of regulations or is it being done on a fairly arbitrary basis?

Assistant Clerk: Under standing order 72 it says that any person, group or corporation making an application for a private bill has to file with the Clerk a copy of the bill, the \$150 filing fee and the declaration on the notices. It goes on to say that every applicant will pay the cost of printing the bill in all stages, including reprinting if it is amended, and the cost of printing the act in the annual statutes.

The standing orders also go on in standing order 86, I think it is, to state that any parliamentary agent is responsible for observing the standing orders and is also responsible for the payment of all fees and charges. That is what we are basing our authority on, that Mr Rapski, as parliamentary agent on this private bill, is personally responsible for paying this.

Mr Morin-Strom: That is a standing order. Does that give some kind of a legal means of collecting that fee?

Ms Mifsud: That is the big issue, whether there is any. We have been trying to work out with people in the Clerk's office whether they have ever had this problem before and how they have enforced the collection, but there has been no precedent, so I think this method was chosen because they are not certain whether legally they have a right outside of the standing orders to collect.

Mr Morin-Strom: What about going to small claims court?

Assistant Clerk: I think we are going to run into the same problem we would with going to a collection agency, that we are not sure we can do this. I guess it comes down to who would be representing the Legislative Assembly. Do we want to send the Speaker out to start action?

1030

Mr Morin-Strom: The only thing I am nervous about is the connotation of having passed a bill which we presumably think is in the best interests of the province and then rescinding it. It appears to be a vindictive thing to do to get you to pay your bill, as opposed to a best legislative judgement on the bill itself.

Mr Keyes: Personally, I do not like rescinding the bill either, because, as Mr Morin-Strom has said, it is a suggestion that we do not agree with the principle of the bill, yet we have passed judgement on it that we do agree with the principle of the bill, that is, reviving the mine. There must be other legal means of collecting the moneys due to us in a way that does not get us involved in trying to pass a bill to rescind a bill we felt was appropriate.

The Chairman: If I might, that is why the document is before you, to elicit your comments and consideration. Perhaps when we do deal with it at the next meeting—and as I say, we will have the gentleman here to plead his case. In the interim, perhaps legal counsel can look at what other avenues are available, if there are any at all, and we can take it from there.

Mr Keyes: You suggested that he would be here if we introduced a bill, but are we going to give him a chance to appear before that?

The Chairman: I think if we are going to deal with it again, he should be here so that no matter what we do, he will know what we are doing and he will have an opportunity to be heard. It would be my suggestion that the next time it appears on the agenda, he appear as well.

Mr Keyes: That is fine.

Mr Smith: If you were to let this payment lapse, shall we say, because you felt you could not get it through the House the way you wanted for some reason—I do not know what it might be—would you make it a condition, then, on all the rest of the bills that until all fees are paid, the bills will not be given royal assent?

Assistant Clerk: There is one problem with doing it that way. We cannot send out the invoice for the printing costs until we have the final printing, which happens after royal assent. We discussed it. We do not feel we can put anything conditional on royal assent.

What the staff in the Clerk's office has considered doing is that the committee could recommend that the standing orders be changed, requiring that all applicants make a deposit based on the estimated printing cost. We would have to have it fairly loosely set up because, as I said before, the printing costs will really vary, depending on the size of the bill.

In this case, this was a four-page bill, a revival. Revivals are \$500 to \$800, maybe \$1,000, depending on whether they have amendments. So we may say that on this size of bill, we would charge a \$500 deposit, so we would only be out a small amount of money. On a 20- or 30-page bill, we would be asking for several thousand dollars. We would have to set up the recommendation so that it would be flexible enough to handle it administratively.

Mr Mackenzie: Unless this has been a regular occurrence or a problem a number of times in the past, I think that might be a little tough. It has been 13 years since I sat for a very brief time on this committee, but I know that then they had to make whatever the payments were. I do not think we asked for a deposit in advance, and I would hate to do that.

I do, however, think that the advice of the clerks is right. I think the court order that he has is irrelevant to his obligation to pay the doggone bill. I have not had a chance to read this yet, but I guess whether you do it through a threat to rescind the bill is the point of the argument here. I think it has to be made clear that he has to pay it, and maybe a threat of rescinding will do it; I do not know. He says no, does he?

Assistant Clerk: He says no. I have talked to him on numerous occasions. Yesterday, I talked to him to tell him that we would be doing this and that he would be invited to appear the next time it is considered.

Mr Mackenzie: My own inclination right off the bat, then, would be to rescind his bill.

The Chairman: That is something, as I say, we can consider between now and—We all might want to get some advice on that. It is interesting, because it is an act to revive. I suppose in some ways there is less sympathy, because if the bill were here because of an error in the first place—I do not know; I think we would be well advised to do this right because we do not want to set any precedents.

Mr Mackenzie: That is it. You might be setting a very dangerous precedent if you let somebody get off, because I can see it happening again. Unless it has been a regular occurrence, and I do not think it has.

The Chairman: No, it has not. Okay, that is what we will do. You have before you a list of the bills that have been referred to the committee. These will be brought up as they are ready. Would it be the wish of the committee that we bring this matter back a week from today? Could I suggest as well that the other item on the agenda be the draft report, that we discuss it? Any questions or comments? Fine. That will be the agenda for next week.

Does anyone have any further business?

Mr Mackenzie: Did you deal with the budget?

The Chairman: Yes, we did. We passed it quickly. It is a very reasonable budget.

Mr Keyes: We tried to amend it to get a travel allowance.

The committee adjourned at 1036.

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STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

PORT BRUCE BOAT CLUB ACT, 1989
VILLAGE OF KILLALOE ACT, 1989
GOWGANDA TOWN PLOT LAND ACT, 1989
MADAWASKA CLUB LIMITED ACT, 1989
561239 ONTARIO INC ACT, 1989
SOUTH SIMCOE RAILWAY HERITAGE ACT, 1989

WEDNESDAY, 7 JUNE 1989



STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

CHAIRMAN: Furlong, Allan W. (Durham Centre L)
VICE-CHAIRMAN: Sola, John (Mississauga East L)
Black, Kenneth H. (Muskoka-Georgian Bay L)
Keyes, Kenneth A. (Kingston and The Islands L)
Leone, Laureano (Downsview L)
Mackenzie, Bob (Hamilton East NDP)
McCague, George R. (Simcoe West PC)
Miclash, Frank (Kenora L)
Morin-Strom, Karl E. (Sault Ste. Marie NDP)
Pollock, Jim (Hastings-Peterborough PC)
Smith, David W. (Lambton L)

Substitutions:

Cleary, John C. (Cornwall L) for Mr Miclash
Daigeler, Hans (Nepean L) for Mr Black

Also taking part:

Chiarelli, Robert (Ottawa West L)
Fleet, David (High Park-Swansea L)
Pollock, Jim (Hastings-Peterborough PC)
Roberts, Marietta L. D. (Elgin L)

Clerk: Freedman, Lisa

Assistant Clerk: ManiRel, Tannis

Staff:

Mifsud, Lucinda, Legislative Counsel

Witnesses:

From Port Bruce Boat Club:

Farnell, Bruce W., Solicitor; with Gloin, Hall and Associates

From the Village of Killaloe Station:

Stott, Cheryll, Clerk-Treasurer

Individual Presentation:

Harvey, David

From Madawaski Club Ltd:

Murray, Ross, Solicitor; with Borden and Elliot

Makuch, Stanley M., Solicitor; with Borden and Elliot

From 561239 Ontario Inc:

Rodenbush, Loren

From South Simcoe Railway Heritage Corp:

Robertson, David, Director

Individual Presentations:

Anthony, Steve

Newson, Howard

Ellis, Donald

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday, 7 June 1989

The committee met at 1010 in committee room 1.

The Chairman: The committee will come to order.

The first item of business is Bill Pr19, An Act to revive Port Bruce Boat Club. The bill is being sponsored by Marietta Roberts. Will you introduce the delegation, please?

PORT BRUCE BOAT CLUB ACT, 1989

Consideration of Bill Pr19, An Act to revive Port Bruce Boat Club.

Miss Roberts: I am pleased to be here today to sponsor Bill Pr19. The solicitor for the boat club, Bruce Farnell, is here today.

The Chairman: Would you like to make a statement at this time?

Mr Farnell: Should I address the amendment initially?

The Chairman: No. I think if you would just address the reason for the bill, the amendment will be moved by one of the members of the committee.

Mr Farnell: Our clients, Mr Pattinson and Mr Campbell, are the remaining members of a social club in Port Bruce. They had a letters patent corporation which was dissolved for failure to file corporate returns in the late 1970s. There are only two members left, Mr Pattinson and Mr Campbell, the applicants here. They would like to revive the corporation so as to continue its activities and to deal with its obligations and the matters for which it was originally incorporated. There is land owned by the corporation and it has contracts and so on and it wishes to be revived to continue for the objects it was incorporated for.

The Chairman: Are there any questions from members of the committee? I understand there is a proposed amendment.

Mr Keyes moves that the preamble to the bill be amended—

Sorry again, rookie procedural problem. When we get to the section, we will deal with it.

Mr Keyes: That is what I thought. I thought maybe we had amended the procedure.

The Chairman: I tried but I cannot get it done.

Mr Keyes: Make it a little more modern.

The Chairman: All right. Let us deal with the procedure then for the bill.

Sections 1 to 3, inclusive, agreed to.

The Chairman: Mr Keyes moves that the preamble to the bill be amended,

(a) by striking out "1967" in the fourth line and inserting in lieu thereof "1957"; and

(b) by striking out "were directors and officers of the corporation at the time of its dissolution, and" in the 12th and 13th lines.

Motion agreed to.

Preamble, as amended, agreed to.

Title agreed to.

Bill, as amended, ordered to be reported.

The Chairman: Miss Roberts is also representing Ron Lipsett, who is substituting for Mr Reycraft. We will proceed to Bill Pr22, An Act to continue The Corporation of the Village of Killaloe Station under the name of The Corporation of the Village of Killaloe.

VILLAGE OF KILLALOE ACT, 1989~

Consideration of Bill Pr22, An Act to continue The Corporation of the Village of Killaloe Station under the name of The corporation of the Village of Killaloe.

Miss Roberts: I am very pleased to be able to sponsor, on behalf of Mr Reycraft, who is on behalf of Mr Lipsett, this particular bill.

I have today the clerk-treasurer, Cheryl Stott, and the reeve, Emerson Lepine. They are prepared to make a small presentation and answer any questions. I wish to have the clerk-treasurer make the statement.

Ms Stott: The village of Killaloe does not have a train station any longer so we would like to drop "Station" from the name. People come to town looking for a station and we feel it is misleading. About 1970 was the last time we had a train through the village. We would like to drop "Station" and have a more applicable name assigned to the village.

Interjections.

The Chairman: We shall not be partisan in this committee. Is there anything further you would like to say?

Ms Stott: I do not think so. Are there any questions?

Sections 1 to 5, inclusive, agreed to.

Preamble agreed to.

Title agreed to.

Bill ordered to be reported.

Miss Roberts: I appreciate your kindness in taking these in consecutive numbers.

The Chairman: The next bill we are going to deal with is Bill Pr5, An Act respecting Certain Land in the Town Plot of Gowganda in the District of Timiskaming.

GOWGANDA TOWN PLOT LAND ACT, 1989

Mr Fleet: It is a pleasure to appear before the committee. This is a fairly straightforward matter. It involves an amendment to the letters patent of a corporation in order to facilitate a sale of land to a resident of Gowganda to be used, I understand, for residential purposes. It involves a sale by a branch of the Roman Catholic church. There really is not much more to be said, but I am happy to respond to any questions.

The Chairman: Perhaps for purposes of the record, you will introduce the gentleman with you.

Mr Fleet: I am here with David Harvey, who appears on behalf of the applicant. I suppose an expert is the best way to put it.

Mr Keyes: I would just like a clarification. Mr Fleet said the purpose of the bill is to remove this habendum so it now can be sold for residential purposes to a private individual. Is that correct?

Mr Fleet: That is correct.

Mr D. W. Smith: Might I just ask if this is a large organization or a small organization?

Mr Fleet: It is vacant land owned by the diocese of the church based in Sault Ste Marie, although the land is in Timiskaming. Hopefully, the members will see fit to waive some of the costs in light of the fact it is a charitable institution involved, the church.

The Chairman: We will come to that matter later. We will deal with the bill first.

Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Title agreed to.

Bill ordered to be reported.

The Chairman: I understand there are some representations to be made to waive the fees in this instance on the basis of the group being a charitable organization. Could we have some additional detail on that?

Mr Fleet: I understand that the return is expected to be \$1,500. That is not very much money, obviously. It is to try to reduce the impact of having to come forward to make this a marketable title and just to have it waived. I understand from my past experience here that that is a fairly common occurrence when it is an organization that is operating for a nonprofit purpose.

1020

Mr Keyes: In our notes appended to this, there is no reference to any \$1,500 fee; there is a reference to a \$150 fee.

Mr Fleet: No, the return on the sale is some \$1,500. It is like 10 per cent of the proceeds.

Mr Keyes: The total proceeds are only \$1,500.

Mr Fleet: The proceeds are some \$1,500.

Mr Keyes: So the fee you are looking for is not \$1,500; it is \$150.

The Chairman: What is it exactly that you are asking for? Waiving of your fees and the printing costs?

Mr Fleet: Yes, all printing costs, as much as we can ask for.

Mr D. W. Smith: For clarification, what might this be that we are asking to waive? Could the clerk or someone tell us what that fee may be?

The Chairman: Perhaps Tannis can explain that.

Assistant Clerk: If I can just explain on this. There is a \$150 filing fee that everyone has to pay before a private bill can be introduced. It is quite normal for the committee to waive that filing fee for charitable organizations.

The standing orders also give us the authority to waive the printing costs. The printing costs on a bill like this, and this is an estimate, would be probably close to \$1,000. The committee has to consider the circumstances, in particular with the printing costs, because it will then cost the Legislative Assembly this money. We will have to pay the printing costs on it, basically, so it will come out of another budget.

Mr D. W. Smith: Mr Chairman, would it be in order for me to make a motion? I will put it on the floor, then they can discuss the motion at that point. Would that be appropriate?

The Chairman: I think that would be appropriate.

Mr Smith moves that the committee recommend that the fees and the actual costs of printing at all stages and in the annual statutes be remitted on Bill Pr5, An Act respecting Certain Land in the Town Plot of Gowganda in the District of Timiskaming.

Any discussion?

Mr Daigeler: What is the precedent for that? We have heard about the filing fee. What about the printing costs?

The Chairman: We have done it before. The question is, as always, that the charitable organization factor has come into play on a number of occasions. The twist in this one may be that there is a profit in the sale, but there is certainly precedent for the committee doing this.

Mr D. W. Smith: Could I ask Mr Harvey what the property is going to be used for? Has that any relevance to this issue?

Mr Harvey: It is being purchased by a local resident to build his home on. One other note: in Gowganda, there is a native land caution in effect, so there is very little land available. It is important for the town just to be able to receive the land at the same time.

Mr Fleet: I understand this land has always been vacant to this point.

Mr Harvey: Yes.

Mr Morin-Strom: Does the native land caution affect this property?

Mr Harvey: No, because it is under patent already.

Mr Morin-Strom: There is no caution on this property?

Mr Harvey: No.

The Chairman: Those in favour of the motion? Opposed? Carried.

Motion agreed to.

MADAWASKA CLUB LIMITED ACT, 1989

Consideration of Bill Pr12, An Act respecting The Madawaska Club Limited.

The Chairman: Mr Daigeler is here as the sponsor. Mr Daigeler, will you introduce the applicant, please?

Mr Daigeler: Thank you. I am here to take the place of Mr Black, who has introduced this bill, Bill Pr12, An Act respecting The Madawaska Club Limited. I have with me Ross Murray, the solicitor acting for the club, and also Stan Makuch. Mr Murray is here to answer any questions, and also briefly present what this bill is all about.

The Chairman: Mr Murray, would you like to make an opening statement to explain the purpose of the bill?

Mr Murray: Thank you. The Madawaska Club came into being in 1898 at the application of a group of teachers and academics from the University of Toronto. At that time a restriction was put upon the ownership of shares in the club. It confined the ownership of shares in the Madawaska Club to those who were graduates, undergraduates, officials or teachers at the University of Toronto. The same restriction was used in 1904 when Ontario granted lands to the Madawaska Club.

What has happened over the years, of course, as is to be expected, is that some children and grandchildren have gone elsewhere, to such terrible places as Queen's University and the University of Western Ontario and, indeed, some to Trent University and various places. It has become, as the years have gone by, more and more of a burden to the members of the club.

The same restrictions, of course, were struck down in a different context by the Supreme Court of Canada as being inappropriate to land, in the case *Galbraith vs The Madawaska Club*, and the club has finally resolved at the insistence of the members that it would like to have these restrictions removed. They are archaic, they are not really in accordance with our world of today and they are just an embarrassment to the club. That is what this bill is all about, to take those restrictions off the shares and off those people who can inherit and enjoy the lands.

The Chairman: Thank you, Mr Murray. Are there questions from members of the committee?

Mr D. W. Smith: I was just going to ask a bit about the club. Are there a lot of buildings on this 150-acre property? Is it a well-developed parcel of land? Just a little background.

Mr Murray: No, it is not. There are cottage sites. The land itself is not developed at all. There are still some 1,000 acres, approximately, in an undeveloped state and which the members of the club use for various purposes, but mostly—I am not quite sure of the word—for dormant uses, in the sense that they do nature studies, canoeing and the rest of it. The stewardship of the land in that regard really has been the main purpose of the club. Over the years they have kept the land largely for those purposes and they are not anxious to expand the cottage sites. In that sense it is very much preserved, in a way, and they want to keep it that way.

1030

Mr Keyes: I just want to follow up on that. I have not had enough time to really study it, but I understand there are some zoning amendments going through this fall, on page 6, with regard to the property. This puts the area of land under the planning of the township of Georgian Bay, is that right? So it depends on future councils whether this land can be totally preserved or developed. Does the Madawaska Club lose some of its control over retaining it as mainly passive recreational land? I am just not too sure. I wonder if you can give me a little more insight into what that official plan amendment will do this fall.

Mr Murray: I would like Mr Makuch to answer that question. He has been looking after that. Just before he goes ahead, there are plans for the creation of about five new sites. There are about 40 applicants springing from the existing membership of the club for those five new sites.

Mr Keyes: It could be about 4,000, I would think.

Mr Murray: From the existing membership there are 40. One of the things the board of directors is going to have to do is decide how to handle that problem fairly and equitably. That might give you some idea about the kind of expansion we are talking about.

Mr Keyes: I am looking at what type of control there is. There were some lands that were granted to that club for that type of use by the province at one time, I believe.

Mr Murray: I would ask Mr Makuch to answer those questions.

Mr Makuch: The situation is that the club has applied to the township for an official plan and zoning bylaw amendment which would effectively restrict approximately 1,000 acres as recreational passive land or open space, basically. The other acreage that is already developed would be basically legalized, because at this point the situation is very unclear. As Mr Murray has pointed out, in doing that, in setting up a standard for what lands could be approved for development and what lands could not, there are approximately five sites that could be added to the ones that are already developed. That is basically the situation. The township and the district as well will then control the use of the land through the official plan and zoning bylaw that will be passed.

Mr Keyes: Is there public access to any of the 1,000 acres of the passive recreational land?

Mr Makuch: As I understand the situation, most of that 1,000 acres borders on water, so yes, there is public access in the sense that anyone could just go up in a boat, canoe or what have you and arrive on that land.

Mr Keyes: What is the percentage of the membership on the township council held by members of this club? Often in cottage country we have whole townships that are controlled by nonpermanent residents. What is the situation with this one?

Mr Murray: We have nobody on the local council from the club.

Mr Keyes: I just raised the issue, because, as you know, it is somewhat controversial in some rural parts of Ontario where cottagers who are summer residents actually control the entire council of a municipality. I can see that if that were in any way the potential here, any future development they wanted to engage in for purposes of speculation would become quite simple, because they are now transferring the zoning and designation of all the lands to the township of Georgian Bay. So a few people who run an election and get elected can then turn around very easily and change the zoning, but it is not there at the moment.

The Chairman: It is not something we have control over, in any event.

Mr Morin-Strom: I would like to know what the membership of the club is and what the access of the general public is to membership in the club.

Mr Murray: Well, because of the restrictions, the membership in the club has been confined up to this point to University of Toronto people, and that is what we want to get rid of.

The membership of the club really consists of, I think, the original families and their descendants and people who have been at the University of Toronto who have come in from time to time over the years. I am not a member of the club. I never had occasion, but I know several of the members. For instance, there is Doug Lee and his wife, who are architects. They had a University of Toronto association and found a site through Mrs Lee's family. It has been a very personal thing in that sense, in that the children marry and bring their spouses. That is usually how the club has expanded and, from time to time, contracted.

I am sorry, the second part of your question was what?

Mr Morin-Strom: You did not answer the first part. How many members are there?

Mr Murray: How many members in the club? There are approximately 80 to 90 sites, and there are 148 shareholders, so that would be a member, I would take it.

Mr Morin-Strom: One shareholder, one-part interest?

Mr Murray: Yes.

Mr Morin-Strom: I asked how easy it is for the general public to obtain membership, presumably with an affiliation with the University of Toronto under these regulations, but is there access to new memberships on an open basis?

Mr Murray: I take it from your question you are excluding all children and so on of existing members.

Mr Morin-Strom: I really want to know whether it is a closed club to existing members, or whether it is open to new applicants who presumably fit the terms of reference of the club.

Mr Murray: It is not a closed club to new members. It is open to new applicants who come along from time to time and have been admitted in the club.

The problem is a physical one in that to maintain the club for what it is, the number of sites are necessarily limited, and there is no point in being a member of the club unless you have a property up there to enjoy. That is not quite true, because the club is very active in certain nature activities, writing, the arts and things like that. We have a great long list of authors, college professors and the rest of it, and walks are held. The people around the club frequently come over to engage in those activities.

As for membership in the club, it is not closed in any sense except in that there are only 90 sites, which we are trying to expand by five more. There really is not a great deal of point in belonging to the club unless you own one of the sites or are a family member of the owner of the site.

Mr Morin-Strom: And the sale of the sites; what would be an approximate price for the site? There is a fee for getting the site and the membership combined. What type of cost are we talking about?

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Mr Murray: I will have to ask, but the cost is not set by the club. If, for instance, there was no one left and a family or a member wanted to sell that, they would then sell it for whatever another party coming in would be willing to pay. It is a market-oriented price in that sense. The club does not have anything to do with setting the price. I can go and ask the members of the club who are here if they have any idea at what price the last turnover went for. I will do that and see if I can find out.

I found out some information. In the last two years a small and modest property went. It went for approximately \$90,000 to \$100,000. In the same period of time a larger and more ornate property also was turned over to new members of the club. It was a much larger place and it went for approximately \$200,000.

Mr Morin-Strom: Are there membership fees involved?

Mr Murray: Yes, there are membership fees involved, but they are very modest. There are also membership costs. There are certain common facilities which the club maintains and the members are assessed for the cost of that on an annual basis.

Mr Morin-Strom: I am under the impression that one of the things you are asking for here is that the current individuals, the families which have properties, are really requesting right to clear title for those properties so that they can sell them on the open market to whomever without any restrictions in terms of the current club rules. That gives me the sense that there is some potential value we would be giving to all the current members with respect to clear property title in comparison with the current situation. Is that a correct assessment?

Mr Murray: It is certainly correct in that the title to both the shares in the club, which are necessary to hold the land, and the land itself will be simplified and therefore made easier of conveyance. That is entirely true. But I do not think it is true to suggest or indicate that this would have any value in a dollar sense on the transfer of the land, because these sites are very attractive and, because of the nature of the club, very desirable.

The club has had a very strict stewardship with respect to this land since the turn of the century, with the result, of course, that if you want a piece of unspoiled shore, this is one of the very few places you can find and enjoy it. There is no problem in finding purchasers for these sites. None at all. Whether you have the University of Toronto restriction on it or off it is not going to make, I think, one dollar's difference in the value of any site that comes up.

That is one of the problems the board has from its immediate members and family. You now have now 40 people who are going to be looking for five sites. As I say, one of the problems they are going to have to put their minds to is how they are going to do that on a fair and equitable basis. It certainly will not be done, I can tell you, on the basis of price.

Mr Morin-Strom: Obviously those five sites will be of considerable value. Who will receive the proceeds of the sale of those five sites?

The Chairman: If I might, Mr Morin-Strom, I think you are getting into---There may be some misunderstanding and perhaps I should ask Mr Murray to correct that. Forgive me if I am misinterpreting this, but you are talking about the value of sites and the value of shares. The land itself, the individual sites, are not, I think, the issue; the issue is whether the shares are going to be transferred. If someone owns a share, it does not mean he owns a site or buys a specific site. I do not know whether that---

Mr Morin-Strom: Mr Chairman, I disagree with that, because I think the reference within the bill itself talks with respect to transfers of portions of the said lands, not only its memberships in the club but transfers of the land and with respect to interest in the land. Title to the land is at stake---

The Chairman: But it is to shareholders. The issue here is the restriction on shares, and I just do not want to get carried off. Go ahead, ask the question, perhaps, if you are not quite clear what you want.

Mr Morin-Strom: This will be the final question, then. Who will be the beneficiary of the sale of those five sites you refer to?

Mr Murray: The club would be the beneficiary. The five sites are being carved out new from common land of the club. The money will go to the club and then the money will be used for club purposes, which probably will have the result of reducing the assessment on the members for their annual expenditures for the upkeep of common docks and for the placement of duck houses and the other things this club does.

Interjection.

Mr Murray: As my friend pointed out---he always yaks in my ear---all of this can be done whether this change occurs or not. This change does not have any effect on that planning process.

Mr Pollock: I understand there are 90 sites now. How many members are there?

Mr Murray: One hundred and forty-eight.

Mr Pollock: Who has a vote in a case like that?

Mr Murray: The shareholder.

Mr Pollock: The 148 would be shareholders.

Mr Murray: Yes, they hold the shares.

Mr Pollock: Could you have more shareholders than you actually have people holding property?

Mr Murray: In a sense, we do because a man and wife can be a shareholder and a member of the club. There are members of the club who do not hold a site.

Mr Pollock: Do they have a vote?

Mr Murray: Yes, but they are usually family members. Usually it is a wife or a son and daughter who at this point in time have had the University of Toronto affiliation and there is a site in the family that those people enjoy, but they are shareholders and they themselves do not hold a site; wives and daughters and sons.

Mr Pollock: But if there are new people coming in, the developers could get their foot in there and actually have some control and take that away from the University of Toronto people? Is that not a correct assessment?

Mr Murray: With the stewardship that has been exercised by the club over the years, there is no reason to think that that is going to change and there is no reason to think that it would be possible for anybody to persuade the membership of the Madawaska Club, as now constituted, to change the nature of the club at all, because they are a group of people who are devoted to keeping the club as it is because they are enjoying the landscape, the water and the rest of it.

Just as an example, the recent research and publications conducted by members of the club include the following publications and books, which have been produced recently: The Use of Plants for the Past 500 Years, by Charlotte Erichsen-Brown; Birds of the Muskoka District, by Christopher Harris; Frogs of the Area, by William Curry; Research on the Nesting Habits of the Osprey, by Kitty Fells; Research on the History of the Indians of Christian Island, by Jan Trimble; and research and articles on the history and logging development of the area by Donald McGregor.

Of those authors, only Donald McGregor was affiliated with the University of Toronto; the rest of them are from other scholastic institutions. But the membership of this club has had a very good stewardship of these lands over the years and there is no reason to think that would change. They are not interested in allowing any developer to come into the club for any commercial purpose. These people do not want that; it is the last thing they want. But they do want their grandson, who has gone to Queen's University, to be able to hold the family cottage without having it done by putting the family cottage back into the trusteeship of the club until that family produces somebody who goes to the University of Toronto.

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It is a very artificial thing, in a way, because it does not take much to register for a night course at the University of Toronto and meet these requirements. If you want to get somebody at the University of Toronto, go in and study municipal planning or something else, that is kind of silly. Go and get yourself registered in a course and you meet the University of Toronto restriction and everything flows through tickety-boo.

But that is a kind of artificiality we would just as soon not play with any more. The members of the club feel that in our day and age, these artificial restrictions, based on where you went to school, are not harmonious with the way we do things today.

Mr Pollock: Let me say that I do not believe they were wanting to change it. I just wanted to bring out the point that there is that possibility

Mr Makuch: If I could respond to that as well, I would just like to point out that the club bylaws limit shareholding by individuals to 10 shares. So in the sense of having sort of a takeover of people who move in and all of a sudden change the direction of the club by virtue of removal of this restriction, on that basis it is not going to happen, because there is no ability for people to move in and buy up all the shares and then shift into a megadevelopment kind of approach to this.

In fact, it is ironic that the questions are raised in terms of speculation and development, it seems to me, because the impact of this change I think is totally divorced from that. What the club has been doing on the other side of things, to have an official plan amendment and zoning bylaw amendment that controls development much more strictly than what is happening now, is real evidence of real control.

What this restriction does is simply cause problems in terms of passing on title to heirs, family members and that kind of thing. There is a desire to have it removed so that you do not go through the charade of a trust, a night course or something like that. The restriction is not going to impact on development; it is not going to impact in driving up prices or value of land or anything like that.

Mr Pollock: But on the other hand, under the Charter of Rights, you cannot restrict somebody from buying shares and using it.

Mr Makuch: I do not think we have a charter problem. Indeed, the question was asked before in terms of a human rights problem, because of the University of Toronto restriction. I think there is much more of a problem in terms of discrimination, given the present legislation, because of the U of T restriction. I am not saying it would come under the Human Rights Code, but it seems to me it is discriminatory, it is unfair, it is inappropriate, given the other very good universities in Ontario. Even though I taught at U of T and still do, I also went to Osgoode Hall and it is a great school. It seems to be crazy, in this day and age, and extremely archaic to have a provision that says only U of T people can own this land.

Mr Pollock: No further questions.

Mr D. W. Smith: Just to clarify, following the questioning by Mr Keyes and Mr Morin-Strom, the original patent from the crown, the reason it gave this land to the U of T people in the first place was to do some

scientific work. It would appear to me that if we are to remove that now, then we have opened up a windfall or a speculation to the shareholders that was not there with the original intent when they were given the land in the first place. Is that clear to you, what has been questioned here before?

It seems to me that we are, call it what you may, giving something of a windfall to the people, the shareholders who have had this for a good many years. If we pass this bill today, scientific work may carry on, but I am not sure that it has to carry on in the future. Is that a fair assessment, Mr Chairman? I do not know.

Mr Murray: The words of the land patent you have been discussing outlined that the lands are granted for the following purposes: summer holidaying, to protect and preserve and propagate fish and game, and to conduct experimental work in forestry, biology and other branches of natural science. The amendment you are being asked to make today does not touch any of that. All of those words stay in the patent and are not touched in any way. What is touched will be the restriction which says, in the seventh paragraph of the letters patent of the Madawaska Club, "that while there may be transfers of particular portions of the said lands from one shareholder of the club to another shareholder therein, no person not connected with the University of Toronto or the School of Practical Science in the manner and to the extent defined in the charter of the said club, other than those specified in the said charter, shall acquire any interest in any of the said lands." That does not touch the business about summer holidaying, to protect and preserve, etc. They are in separate parts of the document completely.

In so far as those words in the charter are concerned, the committee should be aware that the club has set aside 1,800 acres as an open-space reserve to be used for passive naturalist activities: birding, hiking, canoeing, flora and fauna observation, landscape painting. Virtually all of the above acreage is under a forest management agreement with Ontario and is subject to a resolution of the club, which was passed at a shareholders' meeting, prohibiting any development. That resolution still stands.

Several members of the community are founders of the Canadian Coalition Against Acid Rain, Cathy Copps, and continue to work and lobby and fund-raise and they are producing a monthly newsletter on acid rain and its effects on the environment. Naturalists, Kitty Fells, in the club, have established an organization to save the osprey and are actively working to identify, preserve and protect the nesting habitats of the osprey in the Georgian Bay area.

Regular naturalist, education and environment activities of the club include rock walks which are led by members of the club and open to anybody who wants to come and go. The leaders of those walks are professional and amateur geologists who are members of the club.

There are similar bird expeditions held on a regular basis throughout, and the list goes on and on. There are walks and study of the flora, fauna and mushrooms. We run a naturalist's library, which is open to people who want to go and read and look at the books.

I do not think, given the history of the club and its current activity, that there is any danger that the club is going to change. In any event, this amendment really does not have anything to do with that.

Mr Pollock: Just a supplementary to Mr Smith's statements: Was this property purchased or given?

Mr D. W. Smith: Given by the crown, I would say.

Mr Murray: It was purchased, but it was a very moderate purchase price. But only half of the club's present ownings were purchased from Ontario. The club in total has 2,198 acres and half of that was purchased from the provincial government and has the University of Toronto restriction. The remaining 1,000 acres were island properties which the club purchased from the federal government.

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Those island properties, which were purchased from the federal government, had no restrictions on them at all by action of government. The restrictions which were placed on those island properties were placed and maintained by the club. When Mr Galbraith went to the Supreme Court of Canada to say that the restrictions could not bind them, it was not government imposed restrictions he was quarrelling with; it was club imposed restrictions.

Mr Keyes: That makes all the difference in the world.

Mr Murray: So the stiffest policeman who has been around up to this point in time has been the club and I do not see any reason, given the bents, inclinations, and the fact that you are dealing with a bunch of naturalist professors, that that is going to change, because this is what they like to do. They do not like developers.

Mr Pollock: Just to wipe that up, if it purchases the property, then the club can set its own rules as long as it is not breaking any laws of the land. I think that is where I stand on the situation.

The Chairman: Perhaps you could clarify a question for me. I think all of these questions have raised other issues, but you indicated the club purchased 2,198 acres. That was your total holdings at one time? Our notes indicate that, at present, there are 1,125 acres of mainland property and out of that 975 acres are retained by the club. Could you explain to me what restrictions, if any, there are on the club selling off parcels other than those there would be from the Planning Act standpoint? I gather that the club has sold off some parcels.

Mr Murray: I am going to have to check that. My understanding is that it is only to a member of the club that the lands can be transferred. I will find out what the answer to that is.

The Chairman: While you are finding out, could you find out whether the parcel was originally one large parcel that made it indivisible by virtue of the Planning Act, or were there separate parcels that were purchased that did not need Planning Act consent in order to convey?

Mr Murray: Well, I think all of these lands were received prior to the imposition of any Planning Act. The lands were received around 1900.

The Chairman: Could you then find out as well if there have been any conveyances since the Planning Act went into effect?

Mr Murray: Right out of the club?

The Chairman: Yes.

Mr Murray: That is what I am going to find out.

There has never been any land sold from the Madawaska Club out of the club. You gave me two figures, I think: 1,000 acres. The difference between the 2,000 and the 1,000--some-odd are lands purchased from the federal government, the islands. The difference between the 1,000 and the 900 acres, the two figures you gave me which you have, is the existing sites held by members. The rest of that is common to the club. The difference between the 1,000 and the 900 is the total acreage of sites now held by the members of the club.

The Chairman: But the fee is in the member and not in the club? Is that correct? How did that come to pass? That is what I want to know.

Mr Murray: All of the fee was in the club. The club allocated sites to members. You, John Henry, you go over there in that bay and that is where you stay. Over the years, some of the members said: "We would like to have a cottage." And then they built a cottage and then they say: "We would like to have the title of that in our own name; in the name of John Henry." Then, on various applications made to both the club and the province, those sites were transferred from the club to the members but still subject to all the club restrictions and the rest of it. But the title went to the member.

I did three or four of those. What we did was go to the province and inform it of what we were doing. With respect to the Planning Act, we had to go to court. We went to court and got a court blessing on notice to the Attorney General and on notice to the local municipality. We served them. We went to court and said: "We're transferring this site, which has been held."

I remember one for a women by the name of Mary Fraser, and the site had been with Mary Fraser and her family and her father, I think, since 1902. We said: "They've held the site since 1902." The court said to the provincial Attorney General and to the municipality: "Do you have any objections or are you quarrelling with this?" Both of them said: "No, we're not."

That is how the deeds got to the members and that is how the fee got to the members. There are still some sites, I do not know the exact number, where members are occupying cottages to which the title is still in the Madawaska Club.

The Chairman: Are there any questions as a result of my question?

Mr Leone: Some of the description just made cleared up some things in my mind. I did not know, for example, how this club was. We have some land which is open and there are some lots or parcels which are owned by individual members.

The question still in my mind is: What protection is there for us to prevent some kind of speculation by giving the opportunity to eliminate this restriction clause? Tomorrow, anyone, any plan could do that; it could be the intention of the club, if it agrees. We want to be sure that what is intended is a legitimate way for the members to give to their children who are not members of the University of Toronto. At the same time, tomorrow we might get them to go for possible speculation.

The Chairman: I will let them answer, but I do not think making this change is going to have any impact on that. If they wanted to speculate, they could do it today. They would not need this change in order to do it. As they

indicated, the restrictions, the idea of going to the University of Toronto and taking a course, is rather simple and they could accommodate the rule. But perhaps Mr Murray could comment on that.

Mr Leone: I can add a question related to that. The sale by a private member who wants to transfer or something, is that subject to approval of the board of directors or the shareholders of the whole club?

Mr Murray: If I can answer your second question first, the answer is yes. No transfer can take place, no sale can take place. None of these lands can be held by anybody who is not a member of the Madawaska Club. You have to be a member of the Madawaska Club to hold lands. That is in the patent, that is not being changed. That is a restriction that the club still wants and is maintaining. You cannot hold any lands unless you are a member of the club.

It went on to say you cannot be a member of the club unless you came from the University of Toronto or you were with the University of Toronto. That is what we want changed. The membership, the restriction on lands being held only by members of the club, of course, is something the club wants to maintain and we are not changing that.

Regarding the question of whether the changes we are requesting today would result in it being easier to speculate, the answer to that is no. It does not make it any easier to speculate. It does not make it any harder. It simply has no effect. What is going on is that at present the club is going under an official plan specifically directed at the club and specifically directed at the ownership and use of the lands. We are going under that voluntarily, because the members of the club want that control. As I have told the committee, we have devoted 1,500 acres of land on which the club has declared there cannot be any development at all, not even a cottage lot.

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To answer your question, the change today does not have any effect with respect to the control or the use of the lands. It just simply allows somebody's grandson to hold the site if he happened to go to Queen's University or McGill University instead of the University of Toronto or the University of Pennsylvania. The only purpose of this amendment is to clear up that restriction.

Mr Pollock: That leads to another question. Does that mean you have to go to university to be a shareholder?

Mr Murray: You had to. That is one of the aspects that we are getting rid of today. You do not have to go to university.

The Chairman: Are there any further questions? Seeing none, we will put the question. This is Bill Pr12, An Act respecting The Madawaska Club Limited.

Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Schedule agreed to.

Title agreed to.

Bill ordered to be reported.

The Chairman: For your information, we will be reporting these to the House this afternoon. As to when they get finalized, they will need royal assent. I think you are aware of that.

The bill will be reported this afternoon. When the bills will get royal assent depends not on our schedule but on somebody else's.

561239 ONTARIO INC ACT, 1989

The Chairman: The next bill to consider is Bill Pr10, An Act to revive 561239 Ontario Inc. Mr Chiarelli is the sponsor.

Mr Chiarelli: I think this is a standard case whereby the corporation, due to inadvertence, failed to file its returns under the Corporations Information Act and the charter was therefore revoked. I have with me on behalf of the corporation Loren Rodenbush, who will respond to any questions that people on the committee may have.

Mr Keyes: It is not germane to the decision, but I am just wondering if I might ask which business this Ontario corporation is involved in.

Mr Rodenbush: I would be pleased to respond to that. First of all, I am one of the limited partners in this Ontario numbered partnership in which investment was secured by 60 acres of land. The general partner failed to live up to his prospectus. Of more importance, he failed to replace a resigning director, which brought us into this two-year process and this exercise. I am merely here representing on a voluntary basis those 35 senior citizens who made this investment, so that they might revive the corporation and have some hope of getting their investment back from the land.

Mr Keyes: Is it vacant land at the moment?

Mr Rodenbush: It is vacant land.

Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Title agreed to.

Bill ordered to be reported.

SOUTH SIMCOE RAILWAY HERITAGE ACT, 1989

The Chairman: The next bill we are going to be considering is Bill Pr21, An Act respecting the South Simcoe Railway Heritage Corporation.

Mr Pollock: It is my pleasure to present this bill on behalf of my colleague George McCague. I have with me Dave Robertson, who is going to answer any questions in regard to this particular bill.

The Chairman: Mr Robertson, perhaps you would like to make an opening statement to tell us a little bit about the bill and the reason you are here.

Mr Robertson: I am a director in the South Simcoe Railway Heritage

Corp. We are a group of private citizens who, originally in the early 1950s, got together for the purpose of preserving Canadian railway heritage through the collection of Canadian operating railway equipment. Over a period of time, we have collected quite a considerable collection of Canadian National-Canadian Pacific and shorter line railway equipment, which is presently in the village of Tottenham, Ontario.

Our intention today is to incorporate the group as a provincially chartered railway for the purpose of operating a tourist train on a very limited schedule between the villages of Tottenham and Beeton, Ontario, a distance of approximately 4.5 miles.

The intention is to both preserve Canadian railway heritage and to promote tourism in the area and I believe this is beneficial to both the organization and the community as a whole.

Mr Keyes: Just perhaps to hear a response with regard to the letter of opposition from the residents to this incorporation.

The Chairman: Mr Robertson, have you seen that information?

Mr Robertson: Which one?

Mr Keyes: The one by Doris Bolton, just to begin with. Starting with the first one, deal with each one of them individually as to what actions the proposed corporation is taking to try and show itself to be a good corporate citizen in regard to its operations. What will there be if this becomes an incorporated body to show some corporate citizenship towards the concerns they have expressed?

Mr Robertson: I am sorry, sir?

Mr Keyes: I guess you were not listening. I have asked you to respond to the objections raised by individuals in the town with regard to the equipment you have which you intend to incorporate into this heritage.

Mr Robertson: Well, as to Mrs Bolton's letter objecting to the sufficient clearance between railway and adjacent residential properties, the collection of equipment, that is all covered by statute, both federally and provincially, which we have been informed of and are required to comply with.

The other objections as to the frequency of operation of trains, density of people involved in this, both as customers and people operating the trains, that is very limited. The schedule of operations would be primarily weekends only. The operation of steam locomotives is very restricted. Again, it is covered by Canadian law. Stack emissions and all this will have to be complied with. We are not just going to go into this and just start running trains. There are standards we have accepted and are willing to meet to ensure the safety and happiness of the public.

Mr Keyes: Following up, without having seen any of the bylaws of the corporation, which are not here, I wonder what protection the public will have against unsightly equipment being stored in the area for long periods of time.

Mr Robertson: This being a volunteer organization, the program of restoration—we have been in the area since 1986—has been a long and arduous one. The weather is our biggest enemy. We are presently storing the equipment entirely outside. Efforts have been made primarily to stabilize the equipment

so it does not deteriorate physically any further. This has, in some cases, been at the expense of its outward appearance.

The equipment is maintained as best we possibly can with the volunteer force we have available to us. In the last six months there has been an infusion of volunteer help, primarily from the community, which we are working towards building upon, and that has resulted in certain pieces of equipment, which had been designated to be initially operated where the public can see, being restored and rendered a little more pleasing to the eye.

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We are forced by the nature of our volunteer status to direct our efforts more or less from the inside out. Paint and varnish and shiny wheels are, unfortunately, the last thing the public will see. It is a very long, laborious, time-consuming process, and we have just started.

Mr Keyes: I am very supportive of the concept of trying to restore. As you know, I happen to be a shareholder in an organization that restored a fairly sizeable steam engine, built in our own city of Kingston. Do not get me wrong on my question. I guess I am somewhat concerned by the number of comments.

I hope, Mr Chairman, we will ask whether any of the objectors are present today and want to make representation.

The Chairman: There are objectors present and they will be invited to make representation.

Mr D. W. Smith: How far is it between Tottenham and Beeton?

Mr Robertson: It is 4.1 miles, I believe.

Mr Pollock: Do you want to know it in kilometres?

Mr D. W. Smith: No, just miles. I can adjust quite easily.

Mr Keyes: To follow up, my point was that without seeing the bylaws—have they drafted their bylaws? It is in the drafting of bylaws of a corporation which sometimes will give people some sense of security that the operation to be carried on will be one that can be supported by the community.

I support the idea of trying to restore some of the heritage of our rail system, and we are certainly going to need to have perhaps many more such heritage corporations if we are to believe the direction that potentially our one trans-Canada service may take.

I think we have a responsibility to the residents of the area to not become a burden on land owners in the area through being unable to maintain equipment. As the gentleman has said, the work is going to proceed from the inside out, not the outside in, and therefore the public will see only a deteriorating state, perhaps for some years as it is based on voluntary efforts.

Mr Sola: Did I understand you to say that your storage facilities are mainly outdoors right now?

Mr Robertson: Yes.

Mr Sola: Have there been any complaints raised about that?

Mr Robertson: Initially there were, definitely, some rather vocal ones just for the outward appearance of it. As work has progressed, the community has become more aware of what we are trying to accomplish and really how formidable that accomplishment is. It is due to this that the level of involvement in the community has risen, and also the tolerance of the equipment being there, in its outward physical state. There is nothing rusting. There are no great gouts of upholstery and rust holes in the equipment. It just has not been painted in a period of time.

Mr Sola: Has the number of complaints increased with the news that you may be rolling the equipment?

Mr Robertson: No. In fact, they have decreased.

Mr Morin-Strom: We do have some public input here objecting to the approval of this bill. I would ask if you have any evidence of public support for your proposal.

Mr Robertson: No tangible evidence that I can present today, other than the number of volunteers and members of the community who are associated with the South Simcoe railway in Tottenham itself. The membership presently stands at 150, and I would say, without having the actual membership list in front of me, that approximately a third of that is representative of the communities of Tottenham and Beeton and south Simcoe county. It is a very diversified group, but there is definitely a level of community support shown just in the membership alone.

Mr Morin-Strom: Has it ever been brought to either of the two communities to take a position for or against?

Mr Robertson: Yes, definitely.

Mr Morin-Strom: Are there resolutions from those councils?

Mr Robertson: The council of Tottenham—I believe the mechanism was through the members of the chamber of commerce—invited us to Tottenham. We were a group stationed here in Toronto and had operated in Toronto doing day excursions throughout southern Ontario in the mid-1970s. We were requested by the chamber of commerce to make submissions to Tottenham and, I believe, to the council in Beeton before we went up there. We were wholeheartedly supported.

Mr Morin-Strom: But you do not have copies of their resolutions or evidence as to what specific decisions were made by those councils at that time?

Mr Robertson: No, I do not have that with me.

The Chairman: I would like to ask a follow-up on that. Do you know whether there are resolutions of council supporting your proposition?

Mr Robertson: I cannot say with absolute certainty that there are resolutions. I know submissions were made to council and support was given. In what form, be it a resolution or verbal, I could not tell you for certain.

The Chairman: Are there further questions of this gentleman? If not,

please take a seat and we will invite others to come before the committee.

Mr Anthony: May I make my presentation first? I have to leave.

The Chairman: Please identify yourself for the purposes of Hansard.

Mr Anthony: My name is Steve Anthony. I am one of the citizens who is backing on to this railroad track and I would like to thank you for having me come here today to make my presentation.

It has been a long and difficult time for myself and my family pertaining to the purchase of this property. I started the petition against the steam train in January 1987. It was an abandoned track behind my house, officially abandoned by Canadian National. I had made some inquiries about the procedure or the law concerning how the transaction of CN land is sold.

I received a letter from CN Real Estate 23 January 1987.

"Thank you for your letter of 19 January 1987 regarding the above.

"Once rail and other track materials are removed from the right-of-way, various levels of government are offered the property with respect to purchase.

"Due to the Tottenham chamber of commerce planning to operate a train over the line in question, the proposed purchaser in this case requested that the rail, along with track material, be left in place in order to facilitate the proposal.

"In the event various levels of government decline the offer to purchase, adjacent owners are offered their respective portions of the right-of-way."

That is on CN letterhead. I would like to make it quite clear that the municipality of Beeton, in which I live, and myself, being an adjacent owner, at no time were offered the right-of-way.

I have a document here from the corporation of the village of Beeton. In that particular letter it states that at no time was the village of Beeton offered the land to purchase, meaning that the Tottenham Chamber of Commerce at the time I presented my case in front of the Beeton council back in March 1987—it was quite clear at that time—had stated that it was in favour of the training project, but at no time was the land offered to the village of Beeton and it had wondered why. I had wondered why the land was not offered to the abutting owners.

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I also have a letter here dated 7 January 1988, in the Peterborough Examiner. There are several mayors within the area and it is an official letter from the Peterborough Examiner and it also states, "Railway properties are first offered for sale to the federal government, then the provincial government, followed by municipalities and then to abutting private property owners....

"The railway mainly goes through farm land, and I think the opinion of Otonabee council will be for CN to sell its property to abutting owners." Again, that is another piece of documentation.

The Chairman: We do not have copies of that information.

Mr Anthony: I did give copies. Noel St Laurent was helping me and the other people along the track there. We handed everything to, I believe it is, David Reville.

The Chairman: David Reville?

Mr Anthony: Yes.

The Chairman: Perhaps if we could get copies of it now and make copies for members of the committee.

Mr Anthony: I have so much.

The Chairman: Perhaps we can get those to start with. I just wanted to make sure we had them. Okay. Carry on. Sorry.

Mr Anthony: I should have given her this from the corporation of the village of Beeton, which quite clearly states, "No formal offer of sale was made to the village of Beeton by CN." But during all of this time, as I said in my opening statement, it was a very trying time for me and for the families who backed on to the track there. I had started a petition, as I stated. I had approximately 50 signatures in the village of Beeton that were opposed to this train.

At that particular time, when I had started the petition, I had received threatening phone calls to do harm to myself and to my family. It was documented and reported to the Ontario Provincial Police up in Alliston. There were several families along that track who were opposed to this and had received the threatening phone calls.

As of today, the train is running along that track. I just do not understand how this train is able to run along that track as of today. I had been in contact with the OPP just recently and I had asked them: "With this train crossing several concessions between Beeton and Tottenham, what would happen if someone hit the train, or someone was killed while he or she was walking along the tracks? If my child walked off my property and on to the track, is there any insurance? Where are they today? How do they have the right to operate this train along this track now, with no private member's bill, without going to the Ontario Municipal Board or anything? I just cannot understand."

But the OPP could not help me. They did investigate. They stated to me that because it was private property, they did not have any jurisdiction. I had asked them if it was not their jurisdiction when the train crosses the road, where there are no signals crossing these concessions. I feel at that appropriate time a proper investigation was not done by the Ontario Provincial Police. That is my personal feeling, but I only have this aspect.

The sale of the property is a very major concern to me. I do some investigating with the New Democratic Party in Ottawa. His name is Les Benjamin, MP, New Democratic Party, House of Commons, Ottawa. He ran into roadblocks up at that particular level pertaining to the sale of the property. I did some investigating myself—also Wes Kelly, public relations, Canadian National, Ottawa. I had asked for a copy of the Railways Act. They told me there was only one copy in the House of Commons and I could not receive it.

I spoke at that particular time to Wes Kelly. "How did these people come to purchase this land?" I read out to him the format of CN disposing its land. "Yes," he said, "that is the way the land is sold, but we choose not to sell it that way this time." I cannot understand such statements. It really does bother me, the sale of the property. I have the documentation—you have photocopies here—stating the procedures of selling the land, but it was not followed.

Mr Pollock: In your comments, you are absolutely right if a railroad was going to cease to exist. However, the railroad is not ceasing to exist. It is still there. One railroad can sell a railroad to another railroad line.

Mr Anthony: This is not a railroad line.

Mr Pollock: Once again, I thought it was still a railroad line.

Mr Anthony: No, it is not. South Simcoe Railway Heritage is not a railroad line.

The Chairman: That is why they are here trying to get the bill.

Mr Pollock: There is a train running on it.

The Chairman: Yes, but it may be running illegally, I guess, and that is why they are making this application. That is my understanding as to why the—

Mr Pollock: It is my understanding you cannot sell if it is not a railroad line any more. The way it is to be divided up is, first, the federal government has a chance, then the province, then the local municipality and then the abutting land owners.

The Chairman: I think you are probably correct.

Mr Anthony: That is correct. Also, as I made quite clear to you, the village of Beeton quite clearly states that at no time was there an offer presented to it to purchase that land.

The Chairman: I think the point is, however, that if it is sold to another railroad company, then they do not need to offer it to anyone.

Mr Anthony: But it was not a railroad company it was sold to. It was sold to the Tottenham Chamber of Commerce.

The Chairman: I understand what you are saying and we will deal with that in a moment.

Mr Keyes: We seem to be on two issues here. One, I think, is really not rightfully before this committee and that is the issue Mr Anthony is raising, because to me he seems to be raising the legality of the ownership of the line. Our compendium of information says it is owned by the chamber of commerce of Tottenham and Beeton, which may receive funding from the two respective municipalities. I do not know. That seems to be an issue we should not be dealing with, but I can understand why it is a concern of Mr Anthony's with respect to providing an incorporated body, such as South Simcoe Railway Heritage.

Correct me if I am wrong, but the only issue we should be dealing with

is that of whether or not we incorporate a body known as the South Simcoe Railway Heritage. Is that not the issue before us as opposed to ownership? I am very interested, I must admit, in whether it is owned by the chamber of commerce or what, but I think that for Mr Anthony that issue is a legal one that must be pursued through other channels, unless our legal counsel wishes to comment.

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Ms Mifsud: I just want to clarify that this company is already incorporated. The issue is that under the Railways Act they cannot operate a railway without this bill. This bill enables them to operate a railway, not to incorporate them; they are already incorporated.

The Chairman: Thank you for that clarification.

Mr Keyes: Would you comment on my assessment as to whether Mr Anthony's concerns, which I appreciate, are rightfully before this committee?

The Chairman: You are right. The ownership of land is something we do not have anything to do with. The land could be owned by A, B or C, owned by anybody. If they want to operate this railroad, it is going to depend on whether the land owner allows it. If we are talking about a process that Canadian National is going to use, I do not know whether that is in legislation anywhere or whether that is simply a policy of CN to say, "We offer it to the federal government, then we offer it to the provincial, and down the line." I would guess it is simply CN policy. I do not think it is properly before us. I agree with you, Mr Keyes.

Mr Keyes: Mr Anthony has not yet spoken against the incorporation of South Simcoe Railway Heritage. He has not spoken against it and I am not sure whether he is for or against it. I understand he is against an operation of a rail line there, but he has not talked against the bill that is before us. He does have concern about ownership. I do not know whether we want to know whether the ownership is vested in the chamber of commerce or whatever.

The other objectors basically do seem to be objecting to the incorporation, but we will hear from those people.

Mr Morin-Strom: I think Mr Keyes's arguments are a bit spurious. The issue Mr Anthony is bringing is not really the ownership issue. It is whether it is in the best interests of the area to have a railway running on this line. I think it is quite clear from Mr Anthony's position that he feels it is not.

I would just ask roughly the same question I asked Mr Robertson. What evidence might you be able to provide us with respect to the two communities involved and the area between the two communities, on a public position having been taken about this railway being in operation, and whether there is support or opposition generally in the area?

Mr Anthony: As I stated, I started a petition to stop the steam train in particular. As we all know, the steam train will be running on coal, with the emissions and soot and everything that will be put into the air. Originally, when the train came to Beeton, it was stored behind my house with no consideration to the property owners. There were wild parties at night when the train was stored there. There was damage to the train by the wild parties going on. There was no consideration at all given to the owners backing on to the said track, when they first arrived there.

When they moved the train, I do not know what took place on the rail, but I was sitting in my house at the time and the windows were shaking and the foundation of my house was shaking to such a degree that I just could not believe it. I inquired about that and I also inquired at the time on the resale factor of my house pertaining to a train. I am sure the resale factor would be less, to the degree that I have lost all the potential young families who would want to buy my house. Now they would reconsider it. I questioned that at the time.

My house was shaking when this train went by and I questioned the president of the Tottenham Chamber of Commerce. She stated at that time, "The builder of your house must have done a lousy job." I went to a meeting pertaining to Railway Heritage and the Tottenham Chamber of Commerce, and at that meeting they told me if I did not like it to get the hell out of Beeton.

As I say to you to make it quite clear here to you, I have had a difficult time communicating with Railway Heritage and with the Tottenham Chamber of Commerce.

As I said, my concern is the safety of the children who have been playing back there for a great many years. It is completely wide open. There have been no trains running back there for 10 to 15 years. It was officially abandoned in 1987, I believe, or just prior to that. There were no trains running back there at all. Safety was one of my major concerns.

Pollution was another concern of mine: coal-burning and the emissions that would be put out and how it would affect my family when sitting out in the backyard on a sunny day. I brought these matters to the appropriate people, and as I said to you, they told me to move.

The Chairman: Perhaps I may have just one follow-up question to that. When did you buy your house?

Mr Anthony: July 1983.

The Chairman: Any further questions?

Mr Leone: Was it a new home you moved into in 1983 or was it an old house?

Mr Anthony: It was an older house.

Mr Leone: You are living on Maple Avenue?

Mr Anthony: That is right.

Mr Leone: It seems all those houses are against this kind—

Mr Anthony: Yes.

Mr Leone: Are you the only one in the township against, or you have other people—

Mr Anthony: No, I have two others, but I did not bring all 48 who were opposed to it with my petition.

Mr D. W. Smith: How many homes about this property from Tottenham to Beeton? Would you have any idea?

Mr Anthony: There are quite a few at the other end of Tottenham, but I was referring to Beeton, as I live in Beeton.

Mr D. W. Smith: How many in Beeton then? How many along the roads?

Mr Newson: There are 12 homes; the number of homes between Tottenham and Beeton (inaudible).

Mr Morin-Strom: The individual who just answered the question is not on the record.

Mr Anthony: This is Mr Newson.

The Chairman: If you want to come up and sit there, please do, Mr Newson.

Mr Anthony: There are approximately 12 homes at that end of Beeton.

Mr D. W. Smith: Are there homes on both sides of the railroad tracks?

Mr Anthony: No, there are not.

Mr D. W. Smith: What is on the opposite side?

Mr Anthony: A cemetery.

Mr D. W. Smith: There are certainly no comments from there, then.

Mr Anthony: No. All is quiet up there.

The Chairman: We have been joined at the table by Mr Newson and Don Ellis, I understand. I am going to hear from each of them individually and then perhaps you could direct questions and they could share the answers as to what their personal knowledge is.

Mr Anthony: Mr Chairman, I have to leave. May I be excused?

The Chairman: Are there any other questions of Mr Anthony?

Mr Anthony: May I have the documentation I gave out?

The Chairman: Thank you.

Mr Anthony: Thank you for your time.

The Chairman: Mr Ellis, would you like to make a statement?

Mr Ellis: My point on this issue is strictly a personal one. I suffer from asthma very badly. I am on three different kinds of drugs to keep it under control. I can give you the names of those drugs, if you want them. I am allergic to cigarette smoke and wood fireplace smoke and it looks as if I am also going to be allergic to steam engine smoke.

I have a photograph here and will pass it to the members, if possible.

The Chairman: Perhaps you could start over here.

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Mr Ellis: They are both the same. This will give you an idea of the amount of smoke that would be coming out of a steam engine. They are both the same, so you could maybe pass it down.

I moved from Toronto to Beeton in 1972 because of my asthma. I was trying to get out of the smog and the smoke at that time. Now I find I am going to have this steam engine right in my backyard. I understand it is going to be approximately 75 feet from the back of my house, which is fairly close.

Like everybody else, I have done a little research on the emissions from a steam engine. They contain sulphur and ash, and according to the information I have, sulphur is a main contributor to acid rain. It seems to me that at this particular time when governments and organizations are trying to eliminate acid rain, you people should never consider allowing this steam train to run.

Even if there is no health hazard, I have a copy of the Environmental Protection Act here and it states, in section 6, "No person shall cause or permit to be caused the emission of any air contaminant to such an extent or degree as may cause discomfort to persons or may cause loss of enjoyment of normal use of property."

I have a feeling that this amount of smoke that is going to be coming out of this train is not going to allow us to use our backyards.

I would just like to make a very short statement here about what I intend to do if you people allow this train to run, give it assent or whatever it is you do. I know I will have to move; therefore, I intend to fight it through the courts. I understand there is one particular lawyer who is very good at this. He was instrumental in having the train removed from Collingwood. At one time they tried to do the very same thing they are doing here. They tried to get the train incorporated or organized in a way to run as a tourist attraction in Collingwood. This particular lawyer was instrumental in having the whole thing thrown out of Collingwood.

In closing, I would just like to ask your committee not to allow the steam train to run in the village of Tottenham. They have a conservation area that would certainly be large enough if they wanted to set this up as a museum. They would certainly have enough space there to do that. I think what we are asking is simply not to allow the train to run behind our homes.

I hope the members will have read my letter which I sent along with a map showing the location of our houses compared to the railway.

The Chairman: They were circulated to all the members.

Mr Ellis: Also, a note there that the train at this present time can only go 50 feet north of our houses. Therefore, any discharging of passengers would have to be pretty well done in our backyards. That is about all I have.

Mr D. W. Smith: You have made the comment that you do not want the train to travel, but it is all right if it sits in a particular area?

Mr Ellis: As a museum, yes.

Mr D. W. Smith: But if it sits in a particular area, would it still be able to fire up and run? I know it could not run very far.

Mr Ellis: I know that is one-sided. I am only looking after myself. Tottenham is about four miles away from Beeton and it really would not concern me down in Tottenham.

Mr D. W. Smith: Just as long as it does not run between the two places.

Mr Ellis: I do not think there is any objection from Tottenham, none that I have ever seen.

Mr Daigeler: I am not sure to whom to address this question, perhaps legal counsel. If we approve this bill that is before us, it would be my understanding that does not automatically mean the train can run. I presume there are some other steps that have to be taken by the corporation. Would that be correct, counsel?

Ms Mifsud: Under section 4 of the bill, there is a requirement that the corporation make application to the Ontario Municipal Board, which I think considers mostly safety issues, but I am not familiar with what kind of considerations it takes into account if it is going to approve this application. They may also hear objections at that point and I am not sure—but they do have to go to the Ontario Municipal Board.

Mr Daigeler: I am just wondering if any municipality has to okay the running of the train, or the Ministry of Transportation or whatever. If this is incorporated and the OMB agrees, can they automatically run an engine? This is just for my information.

Ms Mifsud: The Ministry of Transportation was sent a copy of the bill and it has investigated the track, I understand. Its main consideration is the safety of the train, not these other policy issues. I do not think it would have entered into considering the kinds of matters you have heard here today.

There are some requirements for the operation of the train. They have to go to the Ontario Municipal Board under section 4, and under section 5 they have to provide an annual safety certificate. So the main issues that were addressed when this bill was being circulated were the safety issues.

The Chairman: Does that answer your question?

Mr Daigeler: Thank you.

The Chairman: Perhaps we can hear from Mr Newson at this time.

Mr Newson: In regard to the safety issue, at this time there are no visual or audible warning devices at all the crossings, and there are a considerable number of concession roads and main roads that the train goes over. One in particular is the main road from Highway 9 up to Highway 89, which has a lot of heavy traffic on it going to and from the Honda plant.

Also, the fact that if they do not have insurance—I know Mr Anthony touched on this earlier. How can they possibly at this time shunt those cars up and down the track with a small diesel engine and get away with it? That is my question.

I would like now to get into my issue, and I would first like to say that I am not against trains, any more than I am against airplanes, boats,

cars or bicycles, and I am certainly not antiheritage. I am all in favour of anything that can be done to preserve it. The concerns I do have, though, are those of the stack emissions from the coal-burning engines, noise and vibration, and safety and property devaluation.

The stack emissions from these engines, whether produced by soft or hard coal, are the same pollutants that are poisoning our lakes in the form of acid rain. There is enough documented data to prove that coal-burning emissions are hazardous not only to our lakes and what lives in them, but also to man himself.

Another stack emission that is produced is the fallout or ash, the particles emitted from the smokestack. Steam trains were very much in use when I was a young boy growing up in Toronto and my father's property was also adjacent to a rail line. I remember playing in the backyard one winter's day in the freshly fallen snow. The snow was clean and white. I remember what the snow looked like after the train had passed. The snow was covered with black specks and flakes of soot. I saw that for many years. It was not just one occasion or one incident. It happened every time the train went up and down the line.

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The aforementioned sulphur emission problem is so great that our present Prime Minister has been negotiating with no less than two United States presidents to come to some agreement on an acid rain accord. These are the same type of pollutants, whether they are out of a steam engine or a steel mill from the US. The magnitude of the coal-burning emission problem should not decrease one degree, whether for a Prime Minister negotiating for a nation or myself on the same environmental issue for a group of home owners.

I will leave those thoughts with you on the emission problem, and I would like to go right into the area of noise and vibration.

When the trains were first pulled into Beeton, again using a small diesel engine, and parked behind my home, I was present and I had been present when various pieces of rolling stock had been shunted up and down the track by a small diesel engine. The rolling of the engines and cars was disturbingly loud, and the vibrations literally did shake the foundation of my home. It is not an old home in the sense that it is 50 or 100 years or more. These homes are 16 years old. My house is 90 feet from the tracks.

I have here—and I apologize for not having copies of this—an article that was taken out of the Sun. I will read one paragraph and, if I may, pass it around. They are talking about the steam train. "And they burn a ton of soft coal each climb to create the hellish 19th century smoke, making them among the greatest polluters of modern time. If it were not for the westerly winds, the soot would fall to the ground and remain."

The tracks are on the west side of our property. We are going to get the prevailing winds, and the smoke and the soot are going to blow towards our homes.

I mentioned safety earlier. If there are no rail crossings in place—and maybe someone here can answer whether they have liability insurance—then we certainly know where their priorities stand as far as safety goes.

In the area of property devaluation, as mentioned earlier, I said my

father owned a home that was also adjacent to a railway line. He actually owned two. Last year, I asked him, "Why did you always buy homes that were adjacent to railway lines, particularly in the early years, when we were all small children growing up?" He said, "Because it was the cheapest real estate." He said he could not afford a home anywhere else, until he had bought one house and then another house, and then finally could get away from the tracks.

I should not use the word "cheap." It is just that a lot of prospective buyers are turned away or they ask questions such as, "Does that line in the back there operate?" I know when I moved in where I am, that was the first question I asked, and I was told, "No, that property is abandoned."

We had sent letters to Canadian National even before the South Simcoe Railway Heritage Corp came on the scene—at that time it was called Ontario Rail—inquiring about purchasing a prospective piece of property.

What Mr Anthony was getting at was that the municipality of Tottenham was overlooked, and I have the motion; Tecumseth was overlooked, and I have the motion; the council of Beeton was overlooked, and I have the motion where it said it was not asked. If the procedure is the federal government, including the utility companies, then the municipalities and then the adjacent property owners, what happened to the municipal people and the governments there? They were never asked. We were certainly never asked.

I would like to know how the chamber of commerce managed to buy this land out from under everybody's nose. And I do not see how they can run the train until this property issue is settled. To just give them a bill so that they can do what they want to do—some clarification is needed.

I was hoping they would have someone from their real estate here so that he could answer some questions, but there is no one here.

Mr D. W. Smith: I would just like to clarify a point. I think you said that your house was built 16 years ago?

Mr Newson: Well, I have been in it—

Mr Ellis: Since 1972. I am the only one who moved in new originally.

Mr D. W. Smith: Was the railway running when these houses were built? That is what I am really asking.

Mr Ellis: There was one train a week for approximately two to three years.

Mr D. W. Smith: The railway was not running after 1975, roughly?

Mr Ellis: Approximately, yes. It would be pretty hard to pin that down exactly, but I would say within a year either way, yes.

The Chairman: I would like to ask a supplement to that. Was the rail line looked after? Were the weeds cut?

Mr. Newson: No, no.

Mr Ellis: Not now, but they were then.

Mr Newson: Up until then, when they ran the train. You know, it was actually a delight to walk down that line. I would have liked to have seen nothing more than that piece of property, which is only 4.1 miles, but when you look at it from an acreage aspect, because of the narrow width of it, you are only around 10 acres, give or take a half an acre, made into an ideal nature trail to link the two communities together.

Mr Pollock: You would get more flak over a nature trail than you would over a railroad line. I am well aware of that.

The Chairman: That is not the issue.

Mr Pollock: I would say that I get more pollution over at the corner of Wellesley and Bay than what you maybe would get there, and there would be even more noise.

Because I sponsored this bill for my colleague, the member for Simcoe West (Mr McCague), and I believe that we are not going to resolve it today—I think there are too many unanswered questions—I will make a motion that it be tabled until the next committee sitting.

The Chairman: Until an appropriate time.

Mr Pollock: Until an appropriate time.

The Chairman: Can I make a suggestion for the motion? First, that it be tabled at the call of the chair and, second, that in the interim we obtain information or solicit representation from the municipalities. It seems to me that is lacking here; we do not know what they want and what they should want. The third item is that an environmental issue has been raised and I suggest that we submit the bill to the Ministry of the Environment for its comments.

Mr Morin-Strom: As well as the county government in between? I do not know if there is another jurisdiction. I do not know if there is a rural—

Mr Newson: The township of Tecumseth, I believe.

Mr D. W. Smith: And the county of Simcoe.

Mr Keyes: I think at the same time we might inquire of Canadian National as to the ownership. The letters here are fairly explanatory, that the corporations did not relinquish their right to purchase the property, because they supported the project as proposed by the chamber. According to the letter from the village of Beeton, in 1987 CN was still the registered owner on the assessment roll; they have not received the 1988 roll. We may be talking about ownership by the chamber of commerce which is not ownership but rather the lease of it, which is potentially what may be there.

That might also explain that CN frankly has not erred in its method of disposal, because it is free to lease to people rather than sell. It is technical, but I think we need to determine from CN the status of that line as well in the meantime. There are just way too many unanswered questions for us to consider today.

The Chairman: Mr Pollock moves to adjourn to the call of the chair and in the interim for the committee to do those things the members raised.

Motion agreed to.

The Chairman: Any further questions?

Mr Sola: I would just like to point out that you stated we do not have the positions of the two townships involved. In the letters we got from Mr. Anthony on 8 March 1988 and 11 February 1988, we do have the position of the township of Tecumseth.

It says, "The township council endorsed the following resolution in support of the project." If in the interim their position has changed—

The Chairman: In fairness, that motion was on 12 February 1986. I think we should perhaps find out what their position is today. Are there further questions at this stage?

Mr Newson and Mr Ellis, it will not be necessary for you to come back when we bring the matter up again unless you choose to. You will be advised as to the date, but if you want to come back and make representation as to whatever the municipal councils are going to propose, we will undertake to provide you with copies of information we get from them. That decision will be up to you.

Mr Ellis: I would certainly like to come back.

The Chairman: All right. We will see to it that you are advised as to the date this matter will come before us again.

Mr Newson: Can I raise one more point? It is regarding the number of homes between Tottenham and Beeton. As I started to say earlier, it is mainly beautiful, open country. The homes that are along the line are a considerable distance from the rails and they are few and far between. It is literally open land where this train will run, but as it comes into our community, with those 12 or 14 houses that are so close to the rail, the train must stop there because it cannot go any further than the concession road. As Mr Ellis pointed out, they only purchased so many feet past that, so it must stop behind our homes. It must idle there. It cannot even turn around, it has to back up and go the other way.

The Chairman: Thank you.

Mr Pollock: Can we also let Mr Anthony know, too?

The Chairman: Yes, we will. Mr Robertson, do you understand what we are going to be doing here? Do you have any comments you would like to make? I know there is a motion to adjourn, but I have let everybody else speak.

Mr Robertson: Certainly my comments would take considerably more time than perhaps is prudent.

The Chairman: The members are requiring information from the municipalities and the Ministry of the Environment, so we are going to adjourn the matter. You will be given an opportunity to comment on another date. You will be advised of the date and be given that opportunity as well.

Mr Robertson: I think that is perhaps the best course.

The Chairman: Thank you very much.

MACHIN MINES LIMITED ACT, 1988

The Chairman: Members of the committee, we have one other item. You will recall that the last time we met we had a motion that I was going to bring a private member's bill regarding unpaid fees for Machin Mines. Although the applicant did not pay the fees, someone else did. So we have the fees and I do not know whether we need a motion to rescind the previous one.

Mr D. W. Smith: When you say, "someone else," it must have been someone connected with the company.

The Chairman: I am told it was someone who was suing the company. In any event, the fees are paid. There is no precedent to be worried about. I do not know we would want to go through with—

Mr D. W. Smith: I move that you rescind, if that is what is appropriate.

The Chairman: Is that the appropriate motion, that we not proceed with the private member's bill? Yes.

Mr D. W. Smith: So moved.

Motion agreed to.

The Chairman: We are adjourned until next Wednesday at 10 am.

The committee adjourned at 1214.

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T-4

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

CITY OF WINDSOR ACT, 1989 (BILL Pr9)

CITY OF WINDSOR ACT, 1989 (BILL Pr 11)

WEDNESDAY, 14 JUNE 1989

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

CHAIRMAN: Furlong, Allan W. (Durham Centre L)
VICE-CHAIRMAN: Sola, John (Mississauga East L)
Black, Kenneth H. (Muskoka-Georgian Bay L)
Keyes, Kenneth A. (Kingston and The Islands L)
Leone, Laureano (Downsview L)
Mackenzie, Bob (Hamilton East NDP)
McCague, George R. (Simcoe West PC)
Miclash, Frank (Kenora L)
Morin-Strom, Karl E. (Sault Ste. Marie NDP)
Pollock, Jim (Hastings-Peterborough PC)
Smith, David W. (Lambton L)

Substitutions:

Callahan, Robert V. (Brampton South L) for Mr D. W. Smith
Matrundola, Gino (Willowdale L) for Mr Miclash

Also taking part:

Cooke, David R. (Kitchener L)

Clerk: Freedman, Lisa

Staff:

Mifsud, Lucinda, Legislative Counsel

Witnesses:

From the City of Windsor:

Kellerman, Abraham, City Solicitor
Lynd, Thomas W., City Clerk
Cecile, Rene, Fire Chief
Tape, William, Chief Fire Prevention Officer

From the Ministry of Municipal Affairs:

Polsinelli, Claudio, Parliamentary Assistant to the Minister of Municipal
Affairs (Yorkview L)

From the Ministry of the Solicitor General:

Kanter, Ron, Parliamentary Assistant to the Solicitor General (St. Andrew-St.
Patrick L)
Philippe, Roy, Deputy Fire Marshal

Individual Presentation:

Meconi, Tullio

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Tuesday, 14 June 1989

The committee met at 1014 in committee room 1.

CITY OF WINDSOR ACT, 1989

Consideration of Bill Pr9, An Act respecting the City of Windsor.

The Chairman: Good morning. The committee will come to order. The first item of business is Bill Pr9, An Act respecting the City of Windsor. The sponsor is Mr Cooke. Would you introduce the applicants, please?

Mr D. S. Cooke: I would like to introduce our city clerk, Thomas Lynd, and the city solicitor, Abraham Kellerman. Tom Lynd is the one with the beard.

There has never been a bill that I have brought to this committee that has been rejected by a committee.

The Chairman: I do not know whether your batting average is going to be maintained after today, but we will see.

Mr Keyes: Those words are a challenge in themselves.

The Chairman: Mr Kellerman, perhaps you might give us an opening statement on Bill Pr 9, please.

Mr Kellerman: Section 1 is the extending operation of section 222 of the Municipal Act, which provides for the licensing of adult entertainment parlours, so that it applies to ships that are within the limits of the city of Windsor waters. The city of Windsor boundaries do extend out to the international boundary and they also project from the east end and the west end of the city of Windsor. So there is a portion of the Detroit River which lies within the corporate boundaries of the city of Windsor.

The definition of "adult entertainment parlour" found in section 222 of the Municipal Act refers to premises and it is our view that "premises" does not include a ship which is plying the Detroit River within the area encompassed by the city of Windsor. Last year the city council did find it offensive that a tour boat allowed adult entertainment on the tour boat outside the jurisdiction of the city of Windsor licensing bylaw governing adult entertainment. So the city of Windsor has applied to the Legislature for private legislation extending the operation of the provisions of the Municipal Act.

1020

The Chairman: As a former chairman of the Oshawa Harbour Commission, I would think you may have a jurisdictional problem. Could you comment on that?

Mr Kellerman: I am satisfied that the city of Windsor, or the province really, does have the authority to legislate in this area. It deals with an activity that is not governed by federal legislation. It concerns entertainment on board a vessel and I submit it would be analogous to the

application of the provincial liquor licence laws on boats within the jurisdiction of Ontario. I also understand that this has been considered by the Attorney General (Mr Scott) and he is not opposed to it on constitutional grounds.

Mr Polsinelli: The government has no objection to this bill proceeding.

Sections 1 to 4, inclusive, agreed to.

Preamble agreed to.

Title agreed to.

Bill ordered to be reported.

Mr D. S. Cooke: Let's adjourn before you destroy my record.

The Chairman: Your record is still intact.

CITY OF WINDSOR ACT, 1989

Consideration of Bill Pr11, An Act respecting the city of Windsor.

The Chairman: The second bill is Bill Pr11, An Act respecting the city of Windsor. Perhaps we could have your comments on that bill.

Mr Kellerman: This arises out of a city of Windsor bylaw that was passed pursuant to a section of the Municipal Act which allows municipalities to pass bylaws regulating conduct at fires.

It is paragraph 42 of section 210 of the Municipal Act which allows municipalities to pass bylaws "for making such other regulations for preventing fires and the spread of fires as the council considers necessary."

The first bylaw on this matter was passed 29 November 1982. It was subsequently amended 10 February 1986 and was repealed and revised by city of Windsor bylaw 8631, passed 21 July 1988.

Under the aegis of that bylaw, the city of Windsor purported to regulate and require, in essence, that "the owner of any building in the city of Windsor that contained an electrically supervised fire alarm system shall provide that such electrically supervised fire alarm system be electronically monitored by the Windsor Fire Department or by a security agent."

During the course of the operation of the city of Windsor bylaws, approximately 700 buildings which had an electrically supervised fire alarm system were tied in to the city of Windsor central firehall so that the fire alarm was electronically monitored. That way, immediately it would cause the fire department to be aware that the fire alarm had gone off in a particular building and the fire trucks could be dispatched to that.

Unfortunately, application was brought in the Supreme Court of Ontario to quash the city of Windsor bylaw on the basis that it was ultra vires. It later came to our attention that section 18a of the Fire Marshals Act does provide that no municipality shall pass bylaws respecting fires.

As a result, due to that piece of legislation in the Fire Marshals Act,

our advice to city council was, in order to enable the municipality to continue to regulate this operation as it does, that private legislation be sought.

Under the retrofit sections of the Ontario fire code, there is one area in which hospitals are required to have their fire alarm systems electronically monitored. There is no other provision for any other class of building under the fire code. The Ontario fire code does refer to health care facilities and refers to such application as homes for special care, homes for the aged, nursing homes, private hospitals and public hospitals. They all fall under the aegis of the fire code.

The application of the city of Windsor under Bill Pr11 is in essence to authorize the municipality to carry out what it has previously enacted by bylaw. If you wish to briefly review the act, certain definitions are made in section 1.

Section 2 is the operative section. Despite subsection 18a(4) of the Fire Marshals Act which now prevents the municipality from enacting bylaws respecting fire, if this is approved and passed by the House it would allow the municipality to pass bylaws "requiring the owner or manager, or both, of any building containing an electrically supervised fire alarm system to have that system electronically monitored by the Windsor Fire Department or by a security agent."

It goes on to provide, under section 3, that, "The corporation may enter into agreements with the owner of a building or an agent of the owner."

It also provides, under section 4, "Where a regulation under the Fire Marshals Act requires that electrically supervised fire alarm systems be electronically monitored in any buildings or class of buildings, a bylaw passed under this section ceases to apply to such buildings or class of buildings," which would prevent now, because of the amendments to the fire code, any municipal bylaw purporting to deal with health care facilities.

In view of the ongoing litigation, the application brought to quash this city of Windsor bylaw, there is also provision, under section 5, that "This act does not validate any bylaw made by the corporation before the coming into force of this act."

I understand there is certain opposition to this bylaw on the basis that the office of the fire marshal feels that certain uniformity ought to be required in the province, but I would point out that the Divisional Court has ruled in *Stewart et al v Mississauga Fire Marshal*, which is reported in 64 Ontario Reports at page 403, which was a decision given on 23 February 1988, a decision whereby the Mississauga Fire Department purported to serve an order under section 18a of the Fire Marshals Act which exceeded the requirements of the fire code.

That was subsequently again challenged and the Divisional Court ruled, if I can read from the head note: "Section 18 of the Fire Marshals Act confers extremely wide and unrestricted jurisdiction upon inspectors to make such other orders as are designed to reduce hazard for fire in any building. The section does not limit the inspectors to the provisions of the code. Further, there is nothing in the code that limits the scope of the inspectors' powers under section 18 of the act. The fact that this may lead to different standards in different municipalities was irrelevant."

There is power at the moment, if section 18 of the Fire Marshals Act is resorted to, in essence to create nonconformity throughout the province.

Unfortunately for the operation of the Windsor bylaw, section 18 of the Fire Marshals Act, if I may refer to that, under clause 18(2)(c) allows the fire marshal to require "the installation of safeguards by way of fire extinguishers, fire alarms and other devices and equipment." Unfortunately, what is being sought here goes beyond that in that the monitoring of fire alarms is a continuing operation. I do not believe existing legislation extends to the city of Windsor authority to issue an order under the Fire Marshals Act, which the courts say it otherwise could do, imposing standards on the city of Windsor higher than are generally found under the fire code.

For that reason, we are here seeking the private legislation which is before you.

I also have with me both the fire chief of the city of Windsor and the chief fire inspector, who can maybe assist the committee by giving their direct testimony as to why they feel this legislation is imperative in the city of Windsor, if you wish to hear from them, Mr Chairman.

1030

The Chairman: If you could come forward to the table, perhaps you could both identify yourselves for the purposes of Hansard.

Mr Cecile: Rene Cecile, fire chief for the city of Windsor.

Mr Tape: William Tape, chief fire prevention officer, city of Windsor.

The Chairman: Would you like them to make statements at this time or would you like to hear the government's position? Perhaps they could assist you in reacting to that.

Mr Kellerman: I think it might be best to hear first from the government.

The Chairman: All right. Mr Polsinelli?

Mr Polsinelli: The applicant is correct that under subsection 18(2) of the Fire Marshals Act the fire department can make an order against a building requiring specific improvements to be made if, upon inspection, it is found to endanger other buildings or persons or property.

I would point out, however, that this is a discretionary power given to the fire marshals in particular situations and is not something that has general application. The applicant, I am sure, is aware there is no requirement in the fire code for the central monitoring of all electronically supervised fire alarm systems.

We have received information from the Ministry of Housing and the Ministry of the Solicitor General that they are objecting to this application for a private bill on the grounds that it undermines the benefits of universality. That is, they are concerned that the same standards should apply throughout Ontario and we should not have different standards for different municipalities.

We have with us today Mr Kanter, the parliamentary assistant to the Solicitor General, and we also have Roy Philippe, who is the deputy fire marshal. Accordingly, the government, on the basis of the objections from both the Ministry of Housing and the Ministry of the Solicitor General, cannot support this application.

Should the members of the committee have any questions, we have staff here prepared to answer the technical questions. Again, we also have Mr Kanter, the parliamentary assistant, who is prepared to make some remarks if required.

The Chairman: Do you want to make remarks now?

Mr Kanter: I think Mr Polsinelli has covered the matter quite adequately. I might just add, perhaps, that the entire pattern of the fire code, of fire legislation in Ontario, has been towards greater provincial consistency. As I understand it, a uniform provincial fire code was established in 1980 or 1981 to replace a myriad of different municipal codes with different standards. The basic concern of the ministry is that this would derogate from that pattern.

Our ministry has also been working—and Mr Philippe can comment on this in greater detail—on a review of the very area this private bill would cover, that is, monitoring of fire alarms, which, as has been noted, now is included with respect to certain public institutions. That review is under way; I believe various fire departments have been involved in it. Mr Philippe could comment further as to the direction it is going and the timing of that particular review.

Mr Polsinelli: If I may add, the applicants have been advised of the ministry's concerns. They have also been advised that if the existing standards can be demonstrated to be unsatisfactory in ensuring safety, then the standards should be changed so that all the municipalities of Ontario benefit.

Both the Ministry of Housing and the Ministry of the Solicitor General have advised the applicant that they are prepared to receive information on that basis and would consider, if the evidence supplied to them by the applicant was adequate, amending the general legislation if that were required.

The Chairman: Are there questions to Mr Polsinelli and Mr Kanter?

Mr D. S. Cooke: I would like to get an idea of what the feeling of Mr Philippe is on the principle of this bill and the timing of any changes to the fire code.

Mr Philippe: With respect to the issue of fire department connection, certainly that has been discussed at a number of committees at the National Building Code level, at the Ontario Building Code level and certainly in the fire communities.

The principle that has been used in establishing whether fire department connections should be provided is reviewing the building and what is at stake, whether it is life or property, and certainly the principle of life safety has been the one that has had the greatest impact. If you look at the present legislation, certainly at the retrofit legislation that we have in place and where, under the fire code, we require a central station connection, that is in the case of health care and that is because we expect the fire service to

be able to respond and assist in the evacuation and the safety of nonambulatory patients.

The building code has general provisions for high-rise buildings, health care facilities, large assembly occupancies and high-hazard industrial-type buildings. That is where it requires central station connections. It falls within the general principle that where the fire service can assist in saving lives or in very hazardous buildings and it would be a benefit to have it respond more quickly, the central station connections have been required by law.

Mr D. S. Cooke: So what are the main areas that are covered by central connection now, either under the fire code or under the building code?

Mr Philippe: Under that building code, if you build a new building, it would include high-rise buildings, health care facilities, large assembly-type occupancies and what is considered group F, division 1, or the more hazardous industrial applications. Those are the limits of the building code right now.

In the retrofit development, under part 9 of the fire code, we presently require central station connections for existing buildings in the health care area. Mr Kanter indicated that we were doing work in the area of residential. We are preparing draft regulations for residential facilities, both low-rise and high-rise. During the review process, it has been recognized that there is a need for a central station connection in high-rise buildings.

There has been no evidence of, or no one has brought forward, a need at the review committee level for central station connections in low-rise residential. In the case of the Windsor bill, we have indicated, as Mr Kanter has indicated, a willingness to review the concerns with respect to Windsor, if that can be justified within the review process for low-rise residential buildings, and to incorporate them in the draft legislation if it stands the test of review. That is the position we have taken with the city of Windsor with respect to that.

Mr D. S. Cooke: Is low-rise residential the city's major focus on this, and are there particular incidents or experiences that you have had that would lead you to come to the conclusion that this is essential for life-saving? Could you maybe share one of the experiences?

Mr Tape: Yes. We have had some sad experiences in the city of Windsor which lead us to believe firmly in our requirements for fire alarm monitoring in low-rise residential buildings. I cannot give an explanation as to why this position has not been brought forward to the legislative committee level, where the retrofit sections of the fire code are being dealt with, although I strongly believe and I strongly recommend that the same legislation for fire alarm monitoring as is required for high-rise residential also be applied to low-rise residential.

If I may, I could use as an example the part of the retrofit section of the fire code that deals with assembly occupancies. It does not require a fire alarm system in an assembly occupancy that holds greater than 300 people to be monitored electronically by a central agency. There is relief under the retrofit section for assembly occupancies. A new building going up, under the current building code, would require monitoring of that fire alarm system.

1040

Second, in answer to Mr Cooke's concerns, the fire code does require fire safety plans to be devised for all buildings within the province. These buildings naturally include residential, which includes high-rise and low-rise buildings. Our concern is that the fire safety plan that is devised for a high-rise building can be utilized quite differently from a fire safety plan for a low-rise building.

For example, a high-rise residential structure would normally have on site 24-hour-a-day supervisory staff to ensure that the fire safety plan in that building does work as intended. In comparison, low-rise residential would take in anything below six storeys. It is our experience in the city of Windsor that quite often the low-rise residential will have fire safety plans devised, but you will also have absentee landlords or managerial personnel on the premises. When the fire alarm system activates within the building, shall we say in the wee hours of the morning, it will activate to notify the tenants, but quite often we have found that there is a considerable delay in notification of the fire department by way of telephone.

I agree that the fire safety plan calls for the telephone to be used immediately to notify the fire department, but in low-rise residential, when there is no one taking charge, you find that the people evacuate the building, those who hear the alarm and are capable of getting out of the building, and we are the last ones to be called. This is our great concern about low-rise residential monitoring.

Mr Polsinelli: Have you compiled that in the form of statistical information?

Mr Tape: I have compiled some examples of fire situations within Windsor.

Mr Polsinelli: No, not in the form of examples, but do you have any statistical information to support what you have been saying? If you do, I think the deputy fire marshal would appreciate receiving it in terms of the review that is being undertaken.

Mr Tape: I do not have with me the statistics that I assume you are referring to.

Mr Polsinelli: Not necessarily with you. If you could get back—

Mr Tape: I would be more than happy to supply them.

Mr Polsinelli: I am sure they would appreciate receiving that in terms of their review.

Mr Tape: Oh, definitely. Yes.

Mr Black: I was just wondering whether the concerns being expressed by Windsor have been expressed by other communities. I cannot imagine that this is a problem only in Windsor.

Mr Philippe: In checking our records, we have no indication that it is a concern of other municipalities. We did poll 14 municipal fire departments on their willingness to accept, and certainly there was not a majority in favour of having that service provided.

In addition, we have discussed the principle of universality with the secretary of the Ontario Association of Fire Chiefs. They endorse the principle of universality and certainly feel that if this change is valid for Windsor, it should be universally applied across the province.

To answer your question directly, having received a number of comments from other departments, certainly in checking our files and going through the review process, we are not aware of it.

The Chairman: Are there any further questions? Mr Kellerman, would you like to comment on what has been heard so far?

Mr Kellerman: I think it has been brought out that the requirements under the Building Code Act refer only to new buildings. They do not refer to existing buildings. The retrofit section of the fire code refers only to health care facilities.

With respect to the issue of universality, if I may suggest, I think it is a bogus issue in that by attempting to create universality, you are looking at the lowest common denominator where everyone agrees what should and should not apply. What I think we have here is a concern expressed by the fire chief and the chief fire inspection officer to the city council of Windsor. The city council has taken their concerns into account and has directed that this application be made to the Legislature for the amendment in order to allow the city of Windsor to enact private legislation that would at least protect the residents of the city of Windsor.

Unfortunately, when you are dealing with provincial legislation such as the fire code, it may well be the intention of the fire marshal to revise it in accordance with concerns that are expressed throughout the province, but we are primarily concerned also with the time delay that may occur during the consideration of the fire marshal and the final enactment of amendments to the fire code.

The immediacy of the problem, at least as deemed by the city of Windsor fire department and concurred in by the city council, is that the city feels that it ought to have legislation to allow for the retrofit of apartment buildings, both high-rise and low-rise, and the application is here before you.

There is provision in the city of Windsor bill that when there is an provincial enactment, in order to comply with a provincial enactment, the city of Windsor cannot then enter that field. It is barred from entering that field.

I would certainly submit on behalf of the city of Windsor that the chief fire inspector has his concerns as to the need for the retrofit provisions, that the committee take into account the concerns expressed by the chief fire inspector and that the committee recommend the enactment of Bill Pr11.

Mr D. S. Cooke: I would like to hear as well from the government representative to get a better understanding of what is so sacrosanct in this particular bill with universality. There have been other bills before this committee where I have understood that to have a hodge-podge of legislation would create inequities across the province, but I do not understand who would be put at risk.

What would be the problem, since the city of Windsor has decided that this is a priority for it, that this is something it wants to do and to have enforced for its local people? What is the principle of universality that is

so important? What is at risk? I do not understand what is at stake here for the government.

Mr Kanter: I think that the principle of universal coverage is particularly important in a safety area. As I understand it, the development of the fire code—

Mr D. S. Cooke: They do not want to go below a minimum; they want to go above a minimum.

Mr Kanter: I appreciate that, Mr Cooke. It is not the position of the government that what the Windsor council and the fire department are seeking is necessarily a bad thing in a substantive sense. We have heard some information that not all municipalities necessarily have had the problem, that not all municipalities necessarily think the service should be provided, but the government is not taking the position that it is a bad, undesirable objective that we should not be working towards.

The government is taking the position that in the area of the fire code it should be a universal standard that people throughout the province should have the same level of protection. It is a principle, and I think the principle applies in both situations. We certainly do not feel that any municipality should be able to provide a lower service.

I think it is significant that the Ontario Association of Fire Chiefs—and it is Mr Philippe who spoke with them directly, not me—also supports efforts to ensure the continued universality of the fire code. That is viewed as an important principle in the area of safety and security.

Mr D. S. Cooke: I understand that.

Mr Kanter: You will recall we had a fairly lengthy discussion in this council on another matter where—

Interjection.

Mr Kanter: Did I say "municipal council"? I am sorry. I am feeling right at home here.

Interjections.

Mr D. S. Cooke: You have a past and a future.

Mr Kanter: Who knows what the future may hold, Mr Cooke.

We had a lengthy discussion on another matter where I suppose in some ways the position you are now espousing and my position were reversed. We said that Sunday shopping was an issue that local councils were quite able to take a position on and there was some debate back and forth on the issue. I think this is clearly a different sort of issue.

1050

Mr D. S. Cooke: You are right, but you still have not explained to me what is at stake from the province's point of view. I can certainly understand that there have to be minimum standards in place so that we can guarantee that all people in Ontario have an adequate and minimum amount of protection provided for them by a universal code, but what you have not

explained to me is who would be at risk and what principle is at risk by saying: "If a municipality wishes to go above and beyond that, that is its decision. It should be able to do that."

What is at stake? Are we saying some developers are going to experience additional costs or business is going to experience additional costs that the province does not want to impose? If so, that is something the municipality imposes at its own risk of turning off possible investment. But that is surely something local councils should be in a position to be able to decide. I still do not understand what is at stake. We are not going below; we are going above.

Mr Polsinelli: The principle of universality is one that in this particular situation is accepted and endorsed by the government. It is also one that is endorsed by the association that represents the fire chiefs throughout Ontario; that is, those who are expert in the field of fire prevention and fire-spreading. If you choose to disagree with that principle on philosophical grounds or a philosophical basis, you are free to do so.

Perhaps it is the place to discuss the principle of universality, but it is one that we endorse and one that the Ontario Association of Fire Chiefs endorses. If you, on the other hand, choose not to endorse that principle, then that is your prerogative.

Mr D. S. Cooke: It is not a matter of endorsing or not endorsing it. I am trying to understand. Usually a principle of universality is put in place to guarantee a minimum level of protection. We are not talking about going below the minimum; we are talking about going above it. I do not understand. You cannot just oppose a bill on the basis of grabbing a principle and saying, "The government tells me there is a principle called universality and that's why we are going to turn it down, no matter what a municipal council tries to do to provide more protection."

Mr Polsinelli: That is fine, but the Ontario fire code does establish a certain basis that is uniform throughout Ontario. In the case of specific sites, where the local fire marshal feels that enhancements are required or improvements are required, he has the authority under subsection 18(2) of the Ontario fire code to order those specific improvements.

So it is not that we are saying individual buildings would be at risk of fire because improvements are required and they cannot be ordered. That is not the case. The local fire marshal has that authority under the fire code. What we are doing, however, is saying that throughout Ontario there will be a uniform standard, a uniform fire code, and that there will be a uniform building code. What the city of Windsor in this particular situation is trying to do is have special rules that differ from the province of Ontario's.

In actual fact, what would happen in this situation, if this bill were passed, since the bill happens to override the fire code in this situation, but not the Ontario Building Code, is that a building would be able to be erected without having to have a centrally attached alarm system. After the building were erected, the fire marshal could go in and enforce the bylaw and order a retrofitting. What we have is a situation that we do not want to occur.

What we want to maintain is the universal basis. Both the Ministry of Housing and the Ministry of the Solicitor General have pointed out to the city of Windsor that if it provides us with the statistical information that is required in terms of proving that this is needed, if it is a benefit—we are not disagreeing that it may be a benefit; we are not saying it should not be a

benefit for all the people of Ontario—if that information is provided to us in its review and if it shares its concerns, there may be an amendment to the general legislation.

Mr D. S. Cooke: What is the time line of the review and the legislation?

Mr Philippe: There are two areas that would have to be considered. One is the Ontario Building Code. I cannot speak for the buildings branch. Obviously, that is another ministry, the Ministry of Housing, but certainly, depending on the scope of the proposed change, we could carry out a review in a relatively short period of time on a specific change.

Mr D. S. Cooke: Is there a general review of the legislation going on now?

Mr Philippe: There is a general review that has gone on with respect to residential buildings, at least at the fire code level for retrofit.

Mr D. S. Cooke: How long has that review been going on now?

Mr Philippe: That has been going on for three to four years. We have gone through the development of the legislation and a socioeconomic impact study and have looked at the impact on housing. All of those things have been considered. At this point, we are in the final stages of that legislative development, but certainly it was directed to us.

Mr D. S. Cooke: So it has been going on for three or four years and you are in the final stages of development. Of course it has to go through a cabinet process and so forth. What are we talking about, another two or three years?

Mr Philippe: We are talking about regulation at this point, not a change to an act.

Mr D. S. Cooke: Yes. It still has to go through cabinet committee and so forth, so are we talking another couple of years?

Mr Philippe: I cannot comment on that. I am sorry.

Mr Black: Would the representatives of the Solicitor General's office and the fire marshall's office be willing to enter into discussions with the Ontario Association of Fire Chiefs to see if it is supportive of this concept?

Mr Polsinelli: The secretary of the Ontario Association of Fire Chiefs has indicating in its discussion that it is supportive of the principle of universality. This concept, according to them, is a different issue. If it is good for the city of Windsor, it should be good for all of Ontario. Both ministries have indicated they would be interested in looking at that aspect of it.

Mr Philippe: Just to add to that, certainly any review that would be carried out by our office would be carried out jointly with the affected parties and representatives from the Ontario Association of Fire Chiefs. We would certainly be a part of that review process and we would certainly give you that guarantee.

Mr Black: I wonder if I could just get a clarification so I am sure I understand. I think what I heard you saying is that you would be willing to take this concern expressed by Windsor, discuss it with the Ontario Association of Fire Chiefs and get some input from it as to whether this should be made universal across Ontario.

Mr Philippe: Yes.

Mr Morin-Strom: I would like to ask our guest from the Windsor fire department whether in fact it has brought this issue up—obviously they are very concerned about it in terms of their own community—whether it has been a subject of discussion within the Ontario Association of Fire Chiefs and whether the association has taken a position or at least reviewed the matter to this point.

Mr Cecile: Yes, I discussed this with the secretary of the association as recently as yesterday afternoon. He has assured me that they do agree with the code's being universal. However, he says from time to time we can expect that there are going to be some shortcomings or whatever, and he supports us 100 per cent for requesting the changes.

As far as what Mr Philippe is stating is concerned, I am part of that association and as they said, it was passed back in 1980, 1981 or 1982. Since then some changes need to be addressed.

Mr Morin-Strom: Given that fact, in other words, you are saying that the fire chiefs' association wants the code to be universal but wants it updated to include the provisions you are proposing for this bill.

Mr Cecile: That is correct.

Mr Morin-Strom: Are you really saying that the association would strongly back the government's changing regulations to ensure these kinds of provisions are made universal across the province?

Mr Cecile: From the people I have talked to, I would have to say yes. The chief from Cambridge is our representative on the fire code committee. I had a meeting in Sarnia on Tuesday and there were approximately 20 departments represented there. There was not one chief who was not in favour of what we are recommending.

Mr D. S. Cooke: It sounds as if maybe the wrong question was placed by the fire chiefs' association.

Mr Polsinelli: No one from the government side is saying this is not a good change or there should not be a change. What we are saying is simply that we strongly adhere to the principle of universality and that we should have a uniform fire code and a uniform building code throughout the province. If these changes are necessary, then we will look at them and perhaps make changes to the general legislation. What we do not want is the city of Windsor, the city of Toronto and the city of Sault Ste Marie each having their own fire and building regulations. It is quite simple, I think.

Mr D. S. Cooke: I understand that. The difficulty some of us have is that when it takes three or four years to develop proposed possible regulations and another whatever period of time to get them through the cabinet process if and when it gets there, we could be talking about six or seven years from the time they started the review three or four years ago to

the time they complete it. Obviously, there are concerns that things are not updated quickly enough to protect the people of this province.

Mr Polsinelli: It seems to me this is the first time, from my understanding, that this request has come up. It has not come in the form of amending the general legislation; it has come in the form of private legislation for a particular municipality.

Mr D. S. Cooke: I think there has been frustration indicated at the time it takes.

The Chairman: That may be the case, but unless there are further questions of these gentlemen, there is another citizen who would like to speak in opposition to this bill. If there are no further questions, could you please come forward, Mr Meconi.

Mr Meconi: My name is Tullio Meconi. I have been a resident of Windsor all my life. I owned a low-rise, two-floor apartment building. I have sold that building. I have no building and no interest in any apartment building because it seems that in Ontario today, "landlord" is a dirty word. I do not know why, but I have no interest.

My problem is that unfortunately my counsel cannot be here today so that I am handicapped; I do not have the full material. The only thing I can assist you with is that I adopted comments made by the government. I wrote to several municipalities before I started this matter. I believe it was Hamilton, London and several municipalities in the Toronto area that felt satisfied the Fire Marshals Act was more than adequate to protect them.

I used to own the building with a group for 15 years. There was no hazard and no problem. I would ask that the legislation be denied.

The Chairman: Mr Meconi, just for the record, the members of the committee have had the benefit of the comments of your counsel in terms of the legal aspect of it. They have had the benefit of that information.

Mr Meconi: Could the report of what was said today be sent to him so that he can make any comments if it were required?

The Chairman: I am sorry?

Mr Meconi: Could the comments you have on Hansard be sent to him after you dispose of this matter?

The Chairman: Yes, we can do that. Are there any questions for Mr Meconi?

Mr Polsinelli: With respect to Mr Cooke's concerns that the fire code is a static document, I have just been advised that it was passed in 1981. It was first amended in 1983 and again amended in 1987. With respect to his comments, it is in a constant form of evolution and as changes are required, they are made and they do not take six or seven years to be made.

Mr D. S. Cooke: I was referring to the general review of the regulations that have been going on for three or four years, as it has been explained to me. We do not know when that review is going to finish.

Mr Polsinelli: It appears that what is happening is that it is in constant review and that as changes are required, they are to be introduced.

The Chairman: All right. We are dealing with Bill Pr11, An Act respecting the City of Windsor. Shall sections 1 to 7 of the bill carry? All those in favour? All those opposed?

Sections 1 to 7, inclusive, negatived.

Preamble negatived.

Title negatived.-

The Chairman: Shall I report the bill to the House?

Interjection: No.

The committee adjourned at 1103.

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Room 481, Legislative Building, Queen's Park, Toronto, M7A 1A2

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STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

SARNIA GENERAL HOSPITAL ACT, 1989

BRUCE OFFICE SUPPLY LIMITED ACT, 1989

ANGELATO SERVICE CENTRE LTD ACT, 1989

INNOMED INC ACT, 1989

ROYAL BOTANICAL GARDENS ACT, 1989

ASSOCIATION OF MUNICIPAL TAX COLLECTORS ACT, 1989

FORT ERIE COMMUNITY YOUNG MEN'S CHRISTIAN ASSOCIATION ACT, 1989

CITY OF KINGSTON AND TOWNSHIPS OF KINGSTON, PITTSBURGH AND ERNESTOWN ACT, 1989

WEDNESDAY 28 JUNE 1989



STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

CHAIRMAN: Furlong, Allan W. (Durham Centre L)
VICE-CHAIRMAN: Sola, John (Mississauga East L)
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Keyes, Kenneth A. (Kingston and The Islands L)
Leone, Laureano (Downsview L)
Mackenzie, Bob (Hamilton East NDP)
McCague, George R. (Simcoe West PC)
Miclash, Frank (Kenora L)
Morin-Strom, Karl E. (Sault Ste. Marie NDP)
Pollock, Jim (Hastings-Peterborough PC)
Smith, David W. (Lambton L)

Substitutions:

Cunningham, Dianne E. (London North PC) for Mr McCague
Dietsch, Michael M. (St. Catharines-Brock L) for Mr Black

Also taking part:

Ballinger, William G. (Durham-York L)
Brandt, Andrew S. (Sarnia PC)
Collins, Shirley (Wentworth East L)
Haggerty, Ray (Niagara South L)
Harris, Michael D. (Nipissing PC)
Keyes, Kenneth A. (Kingston and The Islands L)
LeBourdais, Linda (Etobicoke West L)
Sterling, Norman W. (Carleton PC)

Clerk: Freedman, Lisa

Witnesses:

From the Ministry of Municipal Affairs:

Polsinelli, Claudio, Parliamentary Assistant to the Minister of Municipal
Affairs (Yorkview L)

From the Sarnia General Hospital:

Cimetta, Carlo, Solicitor

From Innomed Inc:

Zeidenberg, Martin K., Solicitor

From the Royal Botanical Gardens:

Plant, Raymond M., Solicitor

From the Association of Municipal Tax Collectors:

Schilling, Nigel, Solicitor
Youl, Jane, First Vice-President

From the Fort Erie Community Young Men's Christian Association:

Barker, Lois

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 28 June 1989

The committee met at 1013 in committee room 1.

The Chairman: Ladies and gentlemen, could we call the committee to order, please. I would like to welcome you to the standing committee on regulations and private bills. The first item we are going to deal with is Bill Pr3, An Act respecting Sarnia General Hospital, sponsored by Mr Brandt. Mr Brandt, could you come forward, please, and introduce the delegation.

SARNIA GENERAL HOSPITAL ACT, 1989

Consideration of Bill Pr3, An Act respecting Sarnia General Hospital.

Mr Brandt: I appreciate this opportunity to bring Bill Pr3 before you. I would like to begin a brief introduction of the purpose of the bill by introducing Carlo Cimetta, who is the solicitor for Sarnia General Hospital. Carlo may wish to make some opening comments as well, and we would be more than pleased to respond to any questions that you might have.

The essential purpose of Bill Pr3 is to give Sarnia General Hospital a degree of local autonomy by incorporating that hospital in a form of status that is common to most hospitals in Ontario. The hospital, as is the case in many parts of the province, is involved in fund-raising and a rather significant expansion program. This bill will allow the hospital to proceed independent of any constraints that may be placed upon it at some future point by the city of Sarnia, which is effectively the owner of the hospital at the present time.

The bill is not precedent-setting in any respect whatever, I want to assure the members of the committee. Within about the last six months the Charlotte Eleanor Englehart Hospital in Petrolia, in a bill sponsored by my colleague the member from Lambton (Mr D. W. Smith), exercised this same option to move to an incorporated status and to allow for certain independence that was not allowed prior to that particular private bill.

I would like to add as well for the edification of the members that the Sarnia city council has passed a resolution and is in favour of this shift in status for the hospital, so that from a local standpoint, there are no objections. I am delighted to have an opportunity to be here with Mr Cimetta to indicate my support for what is being proposed as well.

I did have the opportunity, as a brief aside, to sit on the Sarnia General Hospital Commission for some six years. I want to assure you it is a medium-sized, well-run hospital, and what is being proposed here simply strengthens what is already a very well operated and administered hospital that is a credit to the health system in Ontario.

Perhaps I will let the solicitor, Mr Cimetta, add any further comments that he wants and then we will be open to questions.

Mr Cimetta: Perhaps I could add some brief comments with respect to some detail regarding the proposed private bill and some detail with respect to the background and the thinking behind the drafting of the bill.

Essentially, the purpose of the bill is twofold: firstly, as Mr Brandt indicated, to incorporate the hospital for the purpose of allowing the hospital to continue its operation as a corporate entity, thereby affording it a status of limited liability. In connection with that, the second purpose is to incorporate, in the governing legislation of the hospital, the authority for the hospital to borrow funds in connection with capital expansion.

There are some five pieces of legislation existing at present dealing with the Sarnia General Hospital, dating back to 1920. The most recent piece of legislation dealing with the hospital was passed in 1956. In none of the existing legislation is there provision authorizing the Sarnia General Hospital to borrow funds for capital expansion. The desire to do so at this time stems from expansion plans that are on the table, specifically plans to expand the north and east wings of the hospital to the tune of approximately \$38 million.

In order to align the legislation with the plans of the hospital, it was sought to incorporate borrowing power provisions in the governing legislation of the hospital. The only borrowing provisions which exist in the governing legislation at present are with respect to day-to-day operations of the hospital and the hospital, subject to receiving permission of the Sarnia city council, can borrow up to \$200,000 for, as I have indicated, day-to-day, ongoing operations.

The purpose of this bill is to make provision in the governing legislation of the hospital to allow for capital expansion without requiring the hospital to seek the prior approval of the Sarnia city council. In that connection, I confirm Mr Brandt's comments. This matter has come before council formally in Sarnia, at which time, after presentation of the draft bill, a resolution was made by city council approving the form and content of the bill before you.

1020

Lastly, and really as a housekeeping measure, as I have indicated and as is indicated in section 8 of the proposed bill on page 3, there are five pieces of existing legislation dealing with the Sarnia General Hospital. What Bill Pr3 proposes to do is consolidate all of these pieces of legislation in Bill Pr3, thereby repealing those acts listed in section 8.

The specific borrowing power section would be section 7 in the proposed bill, which quite simply states that the hospital "may borrow such sums as may be required for the operation, improvement and expansion of the hospital at such rates of interest and for such periods of time as the board considers necessary."

Subject to any questions of the committee, those are my comments specifically with respect to the private bill.

The only other request I would like to make at this time is to possibly have the application filing fee and the printing costs of the bill in this matter waived if the committee in its discretion considers it appropriate, given the nature of the request of the hospital and the nature of the legislation that is proposed. It is not for any profit-earning purposes; it is simply to incorporate the hospital and align its governing legislation with its plans for future expansion.

The Chairman: Are there any questions, members of the committee? It

is my understanding that the government position is that—perhaps Mr Polsinelli can indicate that. Any objections?

Mr Polsinelli: Mr Chairman, you are perfectly right. The government has no objections to this bill proceeding, given the high-profile representation and sponsorship that this bill has.

The Chairman: We are nicer to him then he is to us.

Mr Polsinelli: Yes, we are.

Mr Brandt: Mr Polsinelli, I want to thank the government for its co-operation; it has been a long time coming.

The Chairman: We do have a slight problem, however, with the last request for waiving the fees. It will have to be verified, but I do not think you qualify or come under the charitable organization category or criteria that is used to rebate those. We will look into it. If it is possible, then the committee will deal with it at perhaps a later date. But our records indicate that it is not appropriate in these circumstances.

Sections 1 to 10, inclusive, agreed to.

Preamble agreed to.

Title agreed to.

Bill ordered to be reported.

The Chairman: The next bill we are considering is Bill Pr23, An Act to revive Bruce Office Supply Limited. The sponsor is Mr Harris; could you come forward and introduce the delegation, please.

BRUCE OFFICE SUPPLY LIMITED ACT, 1989

Consideration of Bill Pr23, An Act to revive Bruce Office Supply Limited

Mr Harris: I am pleased to sponsor Bill Pr23 and to introduce to you Mrs Edwina Lechlitner and Paul Lechlitner. This bill is to revive Bruce Office Supply Ltd, a company of long standing in the city of North Bay. My understanding is that they have met all of the criteria and that everything has been brought up to date regarding payments. I would hope that the committee would look favourably on Bill Pr23. Mr and Mrs Lechlitner are here to answer any questions if the committee has any.

The Chairman: Are there questions of any member of the committee? Seeing none, does the government have any objections?

Mr Polsinelli: None, Mr Chairman.

Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Title agreed to.

Bill ordered to be reported.

The Chairman: The next item is Bill Pr26, An Act to revive Angelato Service Centre Ltd. The sponsor is Mr Sterling; could you introduce the applicants, please.

ANGELATO SERVICE CENTRE LTD. ACT, 1989

Consideration of Bill Pr27, An Act to revive Angelato Service Centre Ltd.

Mr Sterling: This is similar to Bill Pr23. I have with me Angelo Lorelli and Ms Wendy Dempsey. Angelo is the primary shareholder in this corporation, and Ms Dempsey is his barrister and solicitor.

The corporation was dissolved in September 1982 through inadvertence in that the accountant for Mr Lorelli did not file the proper returns. I believe that he has complied with all of the requirements that are necessary at this time to meet the Ministry of Revenue's considerations and therefore would ask that the committee pass this bill to revive Angelato Service Centre Ltd.

The Chairman: Has the government any objections to this bill?

Mr Polsinelli: No objections, Mr Chairman.

The Chairman: Are there questions from members of the committee?

Sections 1 to 3, inclusive, agreed to

Preamble agreed to.

Title agreed to.

Bill ordered to be reported.

The Chairman: The next item of business is Bill Pr27, An Act to revive Innomed Inc. Mr Keyes will substitute for Mrs O'Neill. Mr Keyes, would you introduce the applicants.

INNOMED INC. ACT, 1989

Consideration of Bill Pr27, An Act to revive Innomed Inc.

Mr Keyes: It is my pleasure, in the absence of Mrs LeBourdais and Mrs O'Neill, to introduce Mr Zeidenberg, who is the solicitor for Innomed Inc.

The Chairman: Do you have any comments you would like to make, sir?

Mr Zeidenberg: Other than "Good morning, ladies and gentlemen," I believe the bill basically is dealing with one issue, and that is that the Corporations Information Act requirements were not met only because my clients, the applicants, never received any notification whatsoever, but throughout the years they have maintained all necessary filings with the Ministry of Revenue and have operated as though the company has continued to exist.

The Chairman: Has the government any objection to this bill?

Mr Polsinelli: None, Mr Chairman.

The Chairman: Any questions from members of the committee?

Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Title agreed to.

Bill ordered to be reported.

1030

The Chairman: The next item of business is Bill Pr7, An Act respecting Royal Botanical Gardens, sponsored by Ms Collins. Ms Collins, will you please introduce your delegation.

ROYAL BOTANICAL GARDENS ACT, 1989

Consideration of Bill Pr7, An Act respecting Royal Botanical Gardens.

Ms Collins: It is my pleasure to introduce the delegation from the Royal Botanical Gardens: John Sheppard, who is chairman of the board; Ms Sandra Cornett, who is the president; and Ray Plant, the solicitor for the RBG. Mr Plant will give you an introduction to the bill.

Mr Plant: The chairman of the board has requested the introduction of this bill in order to incorporate what has been the practice of the board since the inception of regional government in Hamilton-Wentworth and Halton.

The RBG was incorporated in 1941, but the composition of the board never did reflect the realities of regional government. Consequently, it is necessary to change the structure of the board to comply with the existing political realities in the area and the legislation in force there.

Further, it is necessary to make clear that the board, being a charitable organization which has its charitable number with the Department of National Revenue, is a tax-exempt body where it occupies and uses the land for the purpose of the board but not otherwise. That is why attached to the bill you will see a list of farm properties that are revenue-producing and, therefore, should not be tax-exempt. So to make the tax-exempt status to the board clear was important.

Thirdly, it is necessary to have the board clarify its powers with regard to making bylaws and appointing committees. The original legislation in 1941 did not make that clear. All the constituent municipalities, the six municipalities and the three school boards, have consented to the bill.

There was one reservation, by the city of Burlington, with respect to the application of the assets upon dissolution. The city requested that the conservation authorities in the area in which the lands of the RBG were located share in those assets.

We felt, and I discussed this with the legal department of the city of Burlington, that as the present wording is wide enough to include conservation authorities, being any charitable organization with similar objects of the RBG in Canada, they could be included, but to start naming distinct bodies would be missing the point and likely create an endless discussion as to who should be included.

We suggest that the present wording is sufficient for the purposes and

that the bill as presented meets the purpose of the board and has been consented to by all the constituent authorities.

The Chairman: Has the government any objection to this bill?

Mr Polsinelli: With such a distinguished parliamentary agent presenting this bill, how could the government have any objections?

Ms Collins: After what you said about Andy Brandt, I am glad you said this, Mr Polsinelli.

The Chairman: Are there questions by members of the committee?

Mr D. W. Smith: Has this been done before? Is this something new or setting a precedent in any way? I am just asking the question because it is quite a lengthy bill. Do you know if this has happened before?

Mr Plant: No, this does not set a precedent. What is incorporated here is a revision of the original bill in 1941. In 1955 and 1959 there were additions to the board, but the bill itself has never been restructured to reflect the political realities of regional government and that is the main purpose of it.

The granting bodies are now the two regional municipalities, aside from the major granting body, which of course is the Ministry of Culture and Communications. So it was necessary to put a legal foundation to the practice of the board since regional government.

We thought it was desirable at this time to include, as well, housekeeping matters such as clarifying the powers of the board with regard to making bylaws. But it is nothing that the board has not been acting on since 1959.

Mr D. W. Smith: Thank you.

Sections 1 to 15, inclusive, agreed to.

Preamble agreed to.

Schedule agreed to.

Title agreed to.

Bill ordered to be reported.

The Chairman: The next item of business is Bill Pr25, An Act respecting the Association of Municipal Tax Collectors of Ontario. The sponsor is Mr Ballinger; would you please introduce the delegation.

ASSOCIATION OF MUNICIPAL TAX COLLECTORS ACT, 1989

Consideration of Bill Pr25, An Act respecting the Association of Municipal Tax Collectors of Ontario.

Mr Ballinger: I am pleased to introduce Mrs Jane Youl, who is first vice-president of the Association of Municipal Tax Collectors of Ontario and senior revenue officer for Peel region, as well as Nigel Schilling, who is a solicitor from that wonderful region of Durham.

The Chairman: Mr Schilling, would you like to make a presentation?

Mr Schilling: I am sure you have had an opportunity to review the compendium, so I will not go into any great detail.

The Association of Municipal Tax Collectors of Ontario has existed since 1967. It wishes to incorporate for two reasons: personal liability of the officers of the association and members and, second, the prestige that comes with being incorporated.

The association initially applied to the Ministry of Consumer and Commercial Relations for incorporation as a corporation without share capital and ran afoul of Ontario regulation 152 of 1982, which provides that a corporation cannot use the word "association" or any other word or expression that denotes that a corporation is a representative body, unless two thirds of those persons represented by the corporate name will be members of the corporation.

The only method of incorporating, therefore, using the name "association" or any similar expression, is through a private member's bill. In fact, the Association of Municipal Clerks and Treasurers of Ontario and the Institute of Municipal Assessors of Ontario have done just that in the last three years, I believe.

The association has representatives among its membership of some 250 municipalities. I believe there are approximately 680 municipalities in Ontario; so we certainly cannot claim to represent two thirds of the municipalities, let alone two thirds of those working for the municipalities that might otherwise qualify for membership in the association.

Mrs Youl will be happy to answer any questions of a factual nature regarding the association, and if there are any questions of a legal nature, I shall try to answer them.

The Chairman: There was an exhibit today. I think Mr Schilling has outlined the difficulty of following the normal process with this. Are there any questions?

Mr Dietsch: You made reference to a number of municipalities.

Mrs Youl: There were approximately 260 members at the last count. This number is increasing every time we have an executive meeting of the association; so the membership is growing.

Mr Dietsch: I thought Mr Schilling made reference to 600 municipalities. There are 839.

Mrs Youl: There are approximately, as you said, 839. Those include upper-tier government as well. Our representation has been somewhat limited to the lower tier where the actual revenue collection is going on in a large manner.

Mr Keyes: I see the designations "member of association" and "associate member." Can you just give me the distinction on how you determine whether a person becomes a member or an associate member within this bill? It does not set out that clarification.

Mr Schilling: As I understand it, those designations are defined in the bylaws of the association or, we hope, the corporation. The association is given power to pass bylaws under section 5 of the proposed bill.

As I understand it, currently a municipality is a member and if there is more than one person who fits within the definition of tax collector from a municipality that is a member, you have a member and associate members besides.

Mr Keyes: I see. Thank you.

Mr D. W. Smith: Just to clarify in my mind possibly, is this the first time that a group of professionals has been incorporated like this, under these same terms and rules?

Mr Schilling: No, it is not. The Association of Municipal Clerks and Treasurers of Ontario is probably the most well known; it was incorporated by private member's bill in 1985. The Institute of Municipal Assessors of Ontario was incorporated by private member's bill in 1987. Those are two I am aware of

Sections 1 to 10, inclusive, agreed to.

Preamble agreed to.

Title agreed to.

Bill ordered to be reported.

The Chairman: The next item is Bill Pr18, An Act respecting Fort Erie Community Young Men's Christian Association. Mr Smith is substituting for Mr Haggerty.

FORT ERIE COMMUNITY YOUNG MEN'S CHRISTIAN ASSOCIATION ACT, 1989

Consideration of Bil Pr18, An Act respecting Fort Erie Community Young Men's Christian Association.

Mr D. W. Smith: I am pleased to be substituting for Mr Haggerty, my colleague, here today. Here to talk about this bill is Mrs Lois Barker and Al Zanatta. Mrs Barker will be able to answer questions of the committee if there any.

The Chairman: Mrs Barker, is there anything you would like to say as an opening statement? The members have received the compendium that goes with it.

Mrs Barker: Only that we work with the municipality. We are presently opening a new building in January. It will be the first building that we will own. We are just asking basically to be treated in regional Niagara the same as Welland, St Catharines and Niagara Falls YMCA. We would also request that the fees be waived.

The Chairman: It is my understanding, just for clarification, that in your application you did not request that the fees be waived. You can ask for that now, but I have a couple of questions. I assume that you are a charitable organization as defined by the Income Tax Act.

Mrs Barker: Yes.

The Chairman: Fine. Are there any questions?

Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Schedule agreed to.

Title agreed to.

Bill ordered to be reported.

The Chairman: Mr Dietsch moves, seconded by Mr Sola, that the committee recommend that the fees and the actual costs of the printing at all stages in the annual statutes be remitted on Bill Pr18.

Motion agreed to.

The Chairman: The final bill to be considered this morning is Bill Pr24, An Act respecting the City of Kingston and the townships of Kingston, Pittsburgh and Ernestown: The sponsor is Mr Keyes; would you please introduce the applicant.

CITY OF KINGSTON AND TOWNSHIPS OF KINGSTON, PITTSBURGH AND ERNESTOWN ACT, 1989

Consideration of Bill Pr24, An Act respecting the City of Kingston and the townships of Kingston, Pittsburgh and Ernestown.

Mr Keyes: It is a pleasure to be the sponsor of Bill Pr24, particularly because this is just again a representation of the co-operation that is seen in our area among municipalities when it comes to items of common interest. This act is an attempt to strengthen the powers under the Municipal Act to have the regulation of taxis through these four jurisdictions.

It is a pleasure today to introduce the solicitor for the city of Kingston, Norman Jackson, but also I am particularly pleased to see the delegation representing the four municipalities with us. We have Her Worship Mayor Helen Cooper from the city of Kingston; we have Ian Wilson, who is the reeve of Ernestown township; we have Lloyd White, who is a councillor for Kingston township; and we have Barry Malmsten, who is the chief administrative officer for Pittsburgh township. So all four municipalities are participating in this bill.

Your compendium will give you a good idea as to the necessity for such a bill. It has been some months in the discussion stage, but with unanimous consent and resolutions from all four municipalities, they have reached agreement and again concurrence from legislative counsel.

I introduce Mr Jackson, who can add further to it and also answer any questions you have of the municipalities involved.

Mr Jackson: Mr Keyes, as usual, has carried the day for us, we hope. We would like this act because of the enforceability aspect of the legislation that we hope to pass by the commission. We hope there will be not too many charges brought under bylaws, but there may be some, and we would hope that this bill would give it the necessary authority that we could not do by our own agreement or otherwise.

We appreciate the assistance we have had from Mrs Gray, John Chipman and Lucinda Mifsud. There have been a number of different drafts of the legislation, and we think we have a bill now that will do the job and is very satisfactory to the municipalities and hopefully to the province.

The Chairman: Does the government have any position on this bill?

Mr Polsinelli: We have no objection to the bill proceeding.

The Chairman: Members of the committee, any questions? Mr Keyes will be upset because now he is going to have to take them out for a long lunch.

Mr Keyes: A very long walk by the river.

Mr Dietsch: I do not have a question but only a comment. I think it is refreshing to see in Ontario a number of municipalities working co-operatively and I think that speaks well for the type of leadership that area has.

Mr Keyes: That was at the municipal level you were referring to.

The Chairman: He wants to be included in the lunch too.

Mr Polsinelli: Is it true that you are buying lunch for everyone today, Ken?

Mr Keyes: If you've got the time.

Sections 1 to 14, inclusive, agreed to.

Preamble agreed to.

Title agreed to.

Bill ordered to be reported.

The Chairman: Members of the committee, please sit for a moment. There are some items for information purposes.

First, the report of this committee was tabled in the House last week, and I believe you all received a copy of the report today.

Second, our budget for this year was passed by the Board of Internal Economy last Monday. So that has all been done.

Third, and finally, the committee will be meeting next week at the regular time.

The committee adjourned at 1052.

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

CITY OF TORONTO ACT, 1989

LONDON REGIONAL ART AND HISTORICAL MUSEUMS ACT, 1989

REGIS COLLEGE ACT, 1989

CITY OF HAMILTON ACT, 1989

SOUTH SIMCOE RAILWAY HERITAGE ACT, 1989

WEDNESDAY 5 JULY 1989

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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VICE-CHAIRMAN: Sola, John (Mississauga East L)
Black, Kenneth H. (Muskoka-Georgian Bay L)
Keyes, Kenneth A. (Kingston and The Islands L)
Leone, Laureano (Downsview L)
Mackenzie, Bob (Hamilton East NDP)
McCague, George R. (Simcoe West PC)
McClash, Frank (Kenora L)
Morin-Strom, Karl E. (Sault Ste. Marie NDP)
Pollock, Jim (Hastings-Peterborough PC)
Smith, David W. (Lambton L)

Substitutions:

O'Neill, Yvonne (Ottawa-Rideau L) for Mr Leone
Sterling, Norman W. (Carleton PC) for Mr McCague

Also taking part:

Allen, Richard (Hamilton West NDP)
Collins, Shirley (Wentworth East L)
Kanter, Ron (St. Andrew-St. Patrick L)
Reycraft, Douglas R. (Middlesex L)

Clerk: Freedman, Lisa

Staff:

Mifsud, Lucinda, Legislative Counsel

Witnesses:

From the City of Toronto:

Foran, Patricia F., Deputy City Solicitor

From the Ministry of Municipal Affairs:

Polsinelli, Claudio, Parliamentary Assistant to the Minister of Municipal
Affairs (Yorkview L)

From the City of London:

Barber, James P., Assistant City Solicitor

From Regis College:

Costello, Father Jack, President

From the City of Hamilton:

Lawrence, G. Lian, City Solicitor

Individual Presentation:

Goodyear, Dr Michael D. E., Assistant Professor, Department of Medicine,
Faculty of Health Sciences, Ontario Cancer Treatment and Research
Foundation; Hamilton-Wentworth Regional Interagency Council on Smoking and
Health

From Dofasco Inc:

Wilby, Ross H., Manager, Human Resources

From the Ministry of the Environment:

Piché, Ed, Director, Air Resources Branch

From the Ministry of Transportation:

Chadwick, Ian R., Manager, Rail Office

From the South Simcoe Railway Heritage Corp:

Freyseng, E. John, Solicitor and Director

Individual Presentations:

Ellis, Don
Newson, H.

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 5 July 1989

The committee met at 1015 in committee room 1.

The Chairman: Good morning, ladies and gentlemen. I will call the committee to order. We will be deviating from the agenda slightly because of representations.

CITY OF TORONTO ACT, 1989

Consideration of Bill Pr1, An Act respecting the City of Toronto.

The Chairman: The first bill we will deal with is Bill Pr1, An Act respecting the City of Toronto. The sponsor is Mr Kanter. Would you come forward, please?

Mr Kanter: I am pleased to be before the committee this morning. With me is Pat Foran, deputy solicitor for the city of Toronto.

The act basically permits members of Toronto city council to be called city councillors. There is an amendment to provide greater flexibility which will be introduced by Mr Sola. I understand the amendment has been agreed to by Toronto city council and also by the government ministry. As the introducer of the bill, I am normally just a conduit, but in this particular case I supported a similar bill when I was in another political life some years ago and I would urge members to pass this particular piece of legislation.

The Chairman: Ms Foran, would you like to add anything to that?

Ms Foran: Not unless the committee wants me to speak to it.

The Chairman: Are there any questions?

Mr Sterling: I would like to ask Mr Kanter why he thinks we should clarify what we call metropolitan councillors when we have not decided in the Legislature whether we are MPPs or Members of the Legislative Assembly.

Mr Kanter: First, this refers to members of the city council, and second, I think the issue you raise is perhaps a little different from the subject matter covered by the bill, an interesting issue which I would be glad to debate with you at an appropriate time and place.

Mr Sterling: I had a private members' bill in front of the Legislature once, too, to call us MPPs. I just thought I would gain your support this morning.

The Chairman: Does the government have a position on the bill?

Mr Polsinelli: We have no objection to this bill proceeding. As a matter of fact, we understand it may be required as a technical amendment, because of the subsequent enactment to the Municipality of Metropolitan Toronto Act, so this is nothing more than a technical amendment to give to the city of Toronto the rights that every other council in Ontario has.

Section 1:

The Chairman: Mr Sola moves that section 1 of the bill be struck out and the following substituted therefor:

"(1) Despite the Municipal Act and the Municipality of Metropolitan Toronto Act,

"(a) members of the council of the city of Toronto, except the mayor, shall have the title "alderman," "councillor," "city alderman" or "city councillor," as council may by bylaw determine; and

"(b) members of the council, except the mayor, shall have the title "city councillor" until the council passes a bylaw under clause (a).

"(2) Subsections 30(10) and (11) of the Municipal Act apply with necessary modifications to a bylaw passed under clause (1)(a)."

Are there any questions with respect to the amendment?

Mr Mackenzie: A very minor one: Why "except the mayor" rather than the current wording "other than the mayor" when you are referring to the other positions?

Ms Mifsud: They are alternatives. It was just haphazard.

Mr Mackenzie: It simplifies the amendment ever so slightly.

The Chairman: Any further questions?

Shall section 1, as amended, carry?

Section 1, as amended, agreed to.

Sections 2 and 3 agreed to.

Preamble agreed to.

Title agreed to.

Bill, as amended, ordered to be reported.

The Chairman: Thank you very much, Mr Kanter and Ms Foran.

1020

LONDON REGIONAL ART AND HISTORICAL MUSEUMS ACT, 1989

A consideration of Bill Pr16, An Act respecting London Regional Art and Historical Museums.

The Chairman: Mr Reycraft is the sponsor. Would you introduce the applicant, please.

Mr Reycraft: Bill Pr16 is essentially a bill to facilitate the merger of the London Regional Art Gallery and the London Historical Museums. The museums, and it is plural, has been operated by the London library board. I have with me this morning the assistant solicitor for the city of London, Jim Barber. I will ask Mr Barber to comment further on the bill.

Mr Barber: The bill is designed to facilitate the merger and disposition of artefacts and property from the London public library to the art gallery and to reconstitute the board of directors of the art gallery to take account of its new responsibility for the London Historical Museums.

The London Historical Museums were formerly operated by the library. There was an agreement reached between the library board and the art gallery board that the responsibility for the museum should become the responsibility of the art gallery.

Accordingly, the legislation changes the name of the art gallery body. It replaces the 1984 legislation, and I would be pleased to go through it clause by clause if the committee so wishes.

The Chairman: If the committee wishes, you could do that, but I doubt very much that we will be asking.

Has the government a position on this bill?

Mr Polsinelli: We have no objection to this bill proceeding.

Mr Barber: I should indicate that there is a technical amendment—

The Chairman: Yes, we are aware of it. I understand it is to section 3.

Sections 1 and 2 agreed to.

Section 3:

The Chairman: Mr. Keyes moves that clause 3(1)(b) of the bill be amended by inserting after "Middlesex" in the second line "Historical."

Motion agreed to.

Section 3, as amended, agreed to.

Sections 4 to 16, inclusive, agreed to.

Preamble agreed to.

Title agreed to.

Bill, as amended, ordered to be reported.

REGIS COLLEGE ACT, 1989

Consideration of Bill Pr30, An Act respecting Regis College.

The Chairman: Mr Reyecraft is the sponsor. Could you introduce your delegation, please?

Mr Reyecraft: First, I can assure you that Bill Pr30 will be considerably less controversial than a prior one that Dr Allen, Mr Sterling and I and some others in this room were involved in.

I think the explanatory notes make clear the purpose of the bill, but I have with me this morning Father Jack Costello, who is the president of Regis College, and also Gord Farquharson, who is the solicitor for the college.

I would, with your permission, invite Father Costello to make some remarks about the content of the bill.

Father Costello: I would like to begin by just reading these remarks to situate the application and then be open to whatever questions the committee has.

Regis College was incorporated by the Regis College Act, 1978, being chapter 139. In keeping with the normal policies in 1978 of the Ministry of Colleges and Universities, the degree-granting rights of Regis College were exercisable only while it was federated or affiliated with a university which had degree-granting rights conferred by the Legislative Assembly. The policy of the ministry subsequently changed in this respect, and Regis College accordingly now is seeking independent degree-granting rights in theology.

I would just like to add one contextual note here: Regis College is one of seven colleges in the Toronto School of Theology, which is affiliated with the University of Toronto, and all the other six colleges already have independent degree-granting rights. Regis is the only one of the seven that does not at this time have those rights and is simply seeking a status equivalent to that achieved by the other six colleges in TST.

The precedent used in drafting the private bill was the St Augustine's Seminary Act, 1983, being Bill Pr20, and in particular, section 7 thereof.

The section 7 referred to in the private bill is exactly the same as section 7 of the St Augustine's Seminary Act, 1983, except that the private bill utilizes the word "president" instead of the word "president-rector," the word "college" instead of the word "seminary," and the word "deem" instead of the word "consider."

The only difference between the section 7 referred to in the private bill and the former section 7 of the Regis College Act, 1978 is: (a) the deletion from the Regis College Act, 1978, of subsection 7(2), which provided that "the power to grant degrees in theology may be exercised only while the college is federated or affiliated with a university which has degree-granting rights conferred by the Legislative Assembly;" (b) the deletion of the first four words of clause 7(1)(g) of the Regis College Act, 1978, which read "subject to subsection 2, to grant degrees in theology including honorary degrees;" and (c) to incorporate the word "such" so that the first four words of clause 7(1)(h) will read "to appoint such committees."

No existing legislation other than the Regis College Act, 1978 is amended by the private bill.

The only other thing I would add is that Regis College has been in existence as a functioning school of higher education in the area of theology since 1943, so it is not a newcomer on the scene and in no way could be considered a fly-by-night enterprise.

Finally, I would just add that I have copies of supporting letters from the Minister of Colleges and Universities (Mrs McLeod), the provost of the University of Toronto and the heads of all the participating colleges in the Toronto School of Theology.

Mr Keyes: I have one question. I missed what Father Costello said. Will they sit as representatives on the Council of Ontario Universities?

Father Costello: At this point I have not done so and I have been in my office for years, so I am not at all sure right now whether I am invited to do so. I could find that out.

Mr Keyes: I just was not sure whether you sat on it as a college, as opposed to a university. I was not sure whether you would sit on COU or not.

Mrs O'Neill: The Toronto School of Theology has seven schools within it? Is that what you are suggesting?

Father Costello: Yes, it does.

Mrs O'Neill: Or seven colleges?

Father Costello: Seven colleges, but some of those—For instance, Trinity has university status; St Michael's College, which is a member, has university status of its own. The colleges, just to remind you, would be Knox, Emmanuel, Trinity, Wycliffe, St Michael's, St Augustine's and Regis.

Mrs O'Neill: Do you have your own government structure in the Toronto School of Theology of which you now would become a more equal member according to this act?

Father Costello: No, we already have full equality of membership. We simply would have another power that would make us fully equal to the others in relation to the province in the granting of degrees, but not in relation to the other colleges.

The Chairman: Are there any further questions? Has the government a position on this bill?

Mr Polsinelli: We have been advised by the Ministry of Colleges and Universities that it has no objection.

Sections 1 to 3, inclusive agreed to.

Preamble agreed to.

Title agreed to.

Bill ordered to be reported.

The Chairman: Before Ms Collins comes forward to present the next bill, we have been given some additional information which most of the members just received this morning. I would like to take a five-minute recess so that they can acquaint themselves with the information provided this morning before we get on to this.

The committee recessed at 1034.

1045

CITY OF HAMILTON ACT, 1989

Consideration of Bill Pr13, An Act respecting the City of Hamilton.

The Chairman: The bill's sponsor is Ms Collins. Would you introduce the applicant, please?

Ms Collins: It is my pleasure to be here today to introduce a bill which allows the city of Hamilton to pass bylaws regulating smoking in the workplace. I have with me a solicitor from the city of Hamilton, Lian Lawrence, who will introduce the bill to you.

Ms Lawrence: Essentially, what this bill will permit the city of Hamilton to do is enact local legislation to regulate smoking in the workplace. We anticipate giving the employers in the city an option of declaring the workplace totally smoke-free, or of designating certain areas and rooms of the workplace for smoking only, leaving the balance of the workplace to be smoke-free.

We anticipate also requiring that any designated smoking rooms be totally enclosed and ventilated as well as is possible, recognizing of course that we do have a number of sealed buildings, and ventilation directly to the outside is virtually impossible in those sealed buildings.

We would require, we anticipate, that the employer would consult with the employees in the establishment of the workplace smoking policy and that every effort would be made to take into account both the smokers' concerns and the nonsmokers' concerns and preferences.

We also anticipate that any difficulties with respect to the designation of the workplace would be dealt with at an internal level, with the employer's own internal conflict resolution mechanisms. Our city officials would be available to provide input if necessary, and of course the option is always available to an employer to designate the workplace totally smoke-free if an appropriate accommodation cannot be reached.

I would be pleased to answer any questions.

Ms Collins: I understand there are several other people here from the city who would like to make comments on the bill.

The Chairman: We have two others at least on the agenda and we will hear from them, but before we do that, before we even get into the discussions, there is one thing I would like to ask you to comment on: Are you aware of the brief that has been presented by the Ontario Cancer Treatment and Research Foundation, Regional Cancer Centre in Hamilton?

Ms Collins: Yes, I am aware of it.

The Chairman: That document calls for a number of amendments to this bill. I would like to know whether those amendments are supported by counsel. What is your position?

Ms Collins: I understand that the legislation committee of this city and city council have held public meetings on several occasions with regard to this bill, so I would think the groups present today would have had an opportunity at those public meetings to make their views known. This is the position of city council.

The Chairman: So this council is not supporting the amendments, then?

Ms Collins: The city of Hamilton council?

The Chairman: Yes.

Ms Collins: You would have to ask those who are suggesting the amendments if they have been agreed to by the city of Hamilton. I am not aware of it.

The Chairman: I am asking the city solicitor.

Ms Lawrence: I am sorry, we were not made aware of these amendments either until this morning. Glancing through them rather quickly, I would suggest that perhaps they might be more appropriately dealt with at the local level when we take our bylaw back to the drafting stages, rather than introducing them as amendments to the general bill.

The Chairman: Before we get into questions: Mr Polsinelli, has the government a position on this bill?

Mr Polsinelli: As you are aware, there is presently a bill before the House, Bill 194, a Ministry of Labour bill which establishes workplace smoking legislation. That bill puts into place standards that are applicable throughout Ontario. However, a pertinent provision of that bill is that where a municipality has imposed or imposes more strict requirements, then the more strict requirements would prevail.

We recognize as a government that community support is necessary for the successful enforcement of any of this type of legislation. Accordingly, we have no objection to this bill proceeding.

1050

Mr Mackenzie: Is it or is it not a fact that all of the amendments suggested in the presentation of the Ontario Cancer Treatment and Research Foundation were amendments that were moved to Bill 194 and were defeated in committee?

Mr Polsinelli: I am not here to comment on Bill 194 and I have not seen the amendments that have been put forward by the cancer society. If the committee is prepared to consider those amendments, we would have to take them back and circulate them through the ministry to develop government opinion on them.

Mr Mackenzie: In effect, that is actually what has happened to all of these amendments. They have been defeated before the committee.

Mr Polsinelli: I cannot comment on that; I have not seen the amendments.

Mr Mackenzie: Let's put it on record they have been, Mr Chairman.

Mr Polsinelli: You can put anything you want on record.

Mr Morin-Strom: Would the bill as written preclude the city, as has been suggested by the city's solicitor, having the opportunity to change its bylaws to incorporate the suggestions from the local group? Is the bill restrictive?

Ms Lawrence: In my opinion, it would not. I feel that this bill has been close to a year in the making and I think we have drafted it with

sufficient flexibility so that we can make a lot of adjustments to accommodate the concerns at the local level. I would suggest that it would not preclude us making at least some of these amendments, which ultimately, I suppose, is a political decision anyway of our local council.

Mr Allen: Can you give us some sense of the changes that might be made at that level in response to concerns in the local community? Given the fact that you have already stated that the present bill is the product of local hearings, I would assume that therefore all those factors have been taken into account at this time, and therefore there is not likely to be any change in this piece of legislation when it goes back to provide the basis of a bylaw in Hamilton. Is that correct?

Ms Lawrence: I would hope not. I would hope that if there are any changes to be made it would be at our bylaw stage, and that is still open for more discussion and negotiations to fine-tune some of the basic regulations.

Mr Allen: What would be the normal penalty that would attach to the breach of this bylaw in Hamilton?

Ms Lawrence: Of the bylaw itself?

Mr Allen: Yes. There is no indication of penalty in the bill itself. What would be the normal provision in Hamilton for a breach of bylaw of this kind?

Ms Lawrence: There are provisions in the Municipal Act—I cannot quote you the sections—which do provide a maximum penalty of \$2,000. However, it is our experience with respect to our smoking in public places bylaw that our fines are really quite low. They are in the order of perhaps \$100. It is ultimately up to the judge or the justice of the peace who is hearing the charge.

Mr Allen: It almost reminds me of the Minors' Protection Act, where the maximum is \$50 for selling to a minor, which is not much of a penalty.

Mr Chairman, are we into full discussion of this bill at this point, or are we going to hear other representations from Hamilton?

The Chairman: No, we will hear other representations.

Mr Allen: Then can we have an opportunity to come back to the bill?

The Chairman: Yes, we will.

Mr Sterling: First, I want to congratulate the city of Hamilton on taking this step, which three other municipalities in our province have taken. I think the council deserves a great deal of gratitude on behalf of many nonsmokers who are suffering at present.

I also congratulate them on taking this step in recognizing that Bill 194 is an ineffectual piece of legislation and that even if by some miracle Bill 194 does pass this Legislature to third reading—I have said, "Over my dead body," but if in fact that happens—

Mr Keyes: We have seen dead bodies before.

Mr Black: It may be a bonus.

Mr Sterling: That is right. It may be a bonus for you fellows anyway.

If that happens, it is going to necessitate more municipalities to come to us for this kind of legislation.

My question is of a general nature. The city of Markham or the town of Markham—I am not sure which status it has—came forward last June, along with the city of Etobicoke, with very general legislation asking for authorization to make bylaws. Your legislation seems to be more strict in what it is asking this Legislature to give you in terms of authorization. Can you tell me why you have not asked for a more general granting of authorization to make bylaws regarding controlling smoking in the workplace?

Ms Lawrence: I guess I would answer it this way. We used the City of Toronto Act as a model, and we noted that that act closely paralleled the provisions in the bylaw. It was unclear which was drafted first, the bylaw or the bill, but we had drawn up a draft bylaw which we had hoped would address the concerns of the local submissions we had received; from industry and political input, as well.

We took that bylaw back to legislation committee and to council for review, and we did get approval and support of it in principle at that stage. What this bill does is reflect those concerns and provisions. Does that answer your question?

Mr Sterling: Yes, it does. One of the problems we have here is that I do not understand why, if the government is not going to take meaningful steps on its own, it does not just holus-bolus give all municipalities a general authorization to make bylaws controlling smoking in the workplace.

Ms Lawrence: We had hoped that would have been part of Bill 194, but it was not.

Mr Sterling: Yes. That is what my Bill 157 does, of course. It gives every municipality, all 800-plus, that authority.

The Chairman: Are you proposing local option?

Mr Sterling: That is my second choice. If the province will not take the lead, then the municipalities will have to take the lead. That is why I favour local option on it as my second choice, and I have made that clear in many debates in the Legislature.

The Chairman: Yes, I have heard you.

Mr Sterling: I am sure you have.

Mr Keyes: I ask again for clarification from the solicitors on section 2, which refers to the bylaw with respect to smoking in the workplace. That seems to be the area where the majority of the recommendations from the cancer foundation aim at making amendments. Do you see that within your consideration of drafting bylaws, the majority, if not all, of the issues raised by this presentation would be dealt with at that time and could be dealt with and debated in council?

Ms Lawrence: I have not had a chance to really study these provisions at all, having just received them this morning. I think it is fair to say that if they are presented to our local committee and to council, they would get fair hearing at that stage. Whether or not they are ultimately

incorporated in the bylaw, I would suggest, is not for me to say at this point. It would be a political decision to make.

Mr Keyes: Mr Chairman, I am somewhat of the opinion, with this arriving, that the role of this committee is not to try to referee the debate on smoking between a municipality and constituent parts of it. We will hear from the objectors, I am sure, but I just want to leave the thought in the mind of the solicitor that perhaps it would be more prudent for us to put off consideration of this bill for one to two weeks, until the committee of the city that has dealt with the private bill has a chance to discuss it with the two delegations that are going to appear before us now. We will hear the two of them first—

The Chairman: We will hear from them. For clarification, just so we do not misunderstand, Ms Collins made the point that there were public hearings on these bills, and I assume that the representations were made to council at that time on these particular points. If I am incorrect in that, please—

Ms Collins: I know there were public hearings. You would have to ask those who are here.

The Chairman: At this time, perhaps the appropriate thing to do would be to hear from Dr Goodyear. Perhaps you could come forward.

Dr Goodyear: With your permission, and if Mr Wilby is in agreement, I would rather I spoke last, since I have some specific points to make about his presentation.

The Chairman: Do you have any problems with that? Just a moment. Could you come to the mike, please, because we cannot get you on Hansard.


1100

Mr Wilby: I believe that everybody on the committee has a copy of Dofasco's submission dated 13 October 1988, and I would like to comment very briefly on some of the key points in this submission.

First, I want to make it very clear that Dofasco agrees with the intent of legislation, including the proposed Hamilton bylaw, that regulates smoking in the workplace. We have no problem with the intent at all. In fact, we have had our own company-wide policy since August 1988. This policy is based on the concerns and wishes of our people, as determined through a questionnaire sent to all employees before that time.

We studied the issue for over a year and, based on our employees' feelings, we came up with a policy which prohibits smoking in areas of general access: corridors, stairways and the like. We prohibit smoking in meeting rooms. We prohibit it in offices designated by the occupant as nonsmoking. We prohibit smoking in confined office spaces where reasonable accommodation cannot be made and also in areas designated by supervision as nonsmoking areas.

Through our policy, smoking is permitted in certain areas, such as offices designated by the occupant as smoking. We have a portion of our cafeteria and a portion of our reception areas which we designate as smoking. We designate shared, open, well-ventilated plant areas, washrooms and locker rooms.



↓ Our policy has been well accepted by the employees, helped largely, we feel, because it is based on their views. They had input into the policy.


As our submission of 13 October indicates, we have some concerns with two aspects of the proposed Hamilton bylaw. First of all, we are concerned about prohibiting smoking in well-ventilated plant areas. These are extremely large, spacious structures.

I was talking with the general foreman of our number 2 hot mill yesterday and I asked him, "What's the size of the building that houses the hot mill?" He had to phone me back with the figures, but here they are. The building is 2,162 feet long, 90 feet wide and 76 feet high. In some respects it is more akin to working outside than inside.

Further, such a prohibition in these plant areas would cause us some real operational problems. As many of operations are continuous, employees cannot leave their workstation for smoke breaks without seriously disrupting the processes.

Our second concern is prohibiting smoking in enclosed working areas occupied only by smokers or areas where everyone has agreed that smoking is all right. This, we feel, removes the right of the employees to decide whether they want smoking in their work area. We certainly do not want to conduct our employee relations in that manner. We also believe that such a ban would be strongly resented by employees who have agreed to allow smoking.

Apart from these concerns, we also question the need for both provincial and municipal legislation. Having both, we feel, will be confusing and needlessly costly, due to the duplication of enforcement procedures. We feel strongly that the proposed provincial act is sufficient and realistic and recommend that the Hamilton bylaw be withdrawn.



If, however, the Hamilton bylaw is approved, we recommend tht paragraph 5 be expanded to allow smoking in "private work areas designated by the occupants as smoking areas and in well-ventilated factory buildings of greater than 1,000 square feet in area and ceiling height greater than 20 feet."

We appreciate your listening to our concerns and we hope that our input will help this committee.

Mr Sterling: How would you decide that the workers in any one area had decided to allow smoking in that area?

Mr Wilby: They have been canvassed by our supervisors and they have designated to our supervisors which they prefer.

~~Mr Sterling: I think that 100 per cent mandate is a 50 per cent mandate~~

T-1105-1 follows

Mr Sterling: Is that a 100 per cent mandate or is it a 95 per cent mandate or is it a 50 per cent plus one mandate?

Mr Wilby: There has to be unanimous agreement that smoking is allowed before we will permit it.

Mr Sterling: That is one thing I find ridiculous with Bill 194, quite frankly. I think that if everybody in a particular area wants to have smoking, then so be it. I have no qualms about it. The trouble with Bill 194 is that it says you must designate a certain portion nonsmoking and a portion smoking. To me it makes no sense.

My problem in terms of the credibility of your presentation is that you find Bill 194 of any use when, in fact, you can draw a line between my desk and his desk, his desk being smoking and mine being nonsmoking. I do not find that that is any protection to me as a worker.

Mr Wilby: My understanding of Bill 194 is that the company can designate smoking areas but it cannot be more than 25 per cent of the total work area. Is that correct?

Mr Sterling: Yes, that is right, but for the person who sits adjacent to me in an office, his area can be a smoking area and mine can be a nonsmoking area and we can be working in a 10-by-12-foot office. Half of it can be smoking and half of it can be nonsmoking.

Mr Wilby: I would agree with you. Our company policy would override, if you will, Bill 194. We would look at that as having two people in an enclosed area sharing the same space. Unless you and your co-worker agreed that smoking was permitted, it would not be permitted in that example.

Mr Sterling: You are a lot more progressive than Bill 194 is then, in terms of that, but I do not think Bill 194 gives the nonsmoker any protection at all. In fact, during those committee hearings the Ministry of Labour was asked whether or not there was any right for a nonsmoker and there was an acknowledgement by the Ministry of Labour that there was no new right for the nonsmoker. I think that if you are going to have any meaningful legislation you have to create that right.

Mr Wilby: I think you are right. I guess we are looking at Bill 194 as not stopping us from allowing smoking in these huge plant areas where everybody agrees to smoking. Certainly our policy would give the protection you are looking for to nonsmokers in an enclosed area.

Mr Allen: First of all, let me compliment you on taking a very consultative approach to the question of ordering smoking in the Dofasco workplaces.

You say on page 2 under heading 2, "Prohibiting smoking in enclosed working areas occupied only by smokers, or where everyone has agreed to allow smoking." In respect to that, this

legislation would remove the right of employees to decide whether they want smoking in their work area. It would appear by your proviso under 2 that in the first instance everybody has agreed to allow smoking. At the same time, would you agree that the question of right or the question of preference is prior in this kind of situation? The bill itself does not talk about rights at all. It only talks about preferences. How do you see the bill removing rights?

Mr Wilby: The Hamilton bill, as I understand it, says that you can only have a designated smoking area in a cafeteria, restaurant or someplace like that. It does not allow smoking anywhere else. We feel that that being the case, people who have agreed to allow smoking in their work area do not have the opportunity to do so.

Mr Allen: My reading of the Hamilton bill is—

The Chairman: Mr Allen, I think there may be some confusion here and perhaps we could clear it up.

You keep referring to the Hamilton bylaw, which is a document we now have. The bill simply says that the city may pass bylaws. You refer in your presentation to paragraph 5 of a Hamilton bylaw. Is there a bylaw already produced?

~~Mr Allen: The bill is a city charter. At the initial—~~

(T-1110 follows)

1110

Ms Lawrence: Perhaps I could clarify that. At the initial stages of the discussions we did prepare a draft of a bylaw. As I indicated before, we then took that to committee and to council to ensure that it did adequately reflect their concerns and also the concerns of the submissions we have had. That bylaw was circulated for discussion at a public meeting that we held last June and I think that is where the reference is made.

That bylaw has not gone beyond second reading stage, and of course cannot unless and until this bill is enacted. We also anticipate that there will be a number of significant amendments to that bylaw to reflect changes we have made in this bill over the past year that we have been developing it.

It is a very, very rough document.

The Chairman: The bill really is an empowering bill. It just simply allows them to make bylaws. What Mr Wilby was referring to was I guess the bylaw that you mention now. That may clarify the position on that.

Mr Allen: That is slightly confusing, because of course this piece of legislation does provide for designated smoking areas and rooms in other places beyond cafeterias and public places associated with workplaces.

I also want to ask whether, in the light of the concern of health agencies, which are unanimous on the problem of the presence of smoking in any respect in workplaces where there is a common ventilation system—quite apart from whether a worker in a given room says, "Yes, I would like to smoke here," and you forbid him and one says, "No, I do not want to smoke in my office," so there will not be any smoking there but the two offices share a ventilation system and everybody gets the result. The health community is unanimous that that is simply is not an acceptable solution to smoking problems.

Second, there is a problem with respect to what might be called consultative approaches in that they tend to be based upon a sense of whether you are being irritated, physically bothered by the smoke, as distinct from being impacted by numerous of the chemicals which are released in the course of smoking which, however, as carcinogens are extremely serious, among the most deadly airborne carcinogens that are known to man, and may not be experienced in terms of irritation but may have none the less very substantial and serious health impacts.

Is there not a problem in the consultative process in that it does not really necessarily take account of the scientific evidence and the impact that people are actually having and experiencing, even though they may not recognize that it is irritation and therefore may not be bothered to respond in a consultative sense to the problem they are faced with?

Mr Wilby: Yes, what we have done certainly is not perfect. There is a problem, as you state. What we are trying to accomplish is to balance the needs of smokers and nonsmokers as much as we can. What we are doing will

~~CONFIDENTIAL~~

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never completely satisfy the nonsmokers and it probably will not completely satisfy the smokers in all cases either. We are just trying to find a balance to accommodate the needs of as many employees as we can.

Mr Allen: Is your policy then a health policy or is it a consensus policy pure and simple? If you have no bias in favour of nonsmoking, then I can see one simply going along with a straight consultative approach, but surely the evidence in all public bodies—which in effect a big corporation that employs many people is; it has to be unbiased on behalf of the scientific findings with regard to health impacts on employees; that is what health and safety committees are all about—is distinct from basic consultative consensus views about regulation.

Mr Wilby: We are concerned about the health side of it. I guess our feeling is that smoking is an evolving concern. This may be the first of many policies. Each one will likely become stricter, but we felt that in our environment, if we took a tougher stand than, first of all, the employees felt comfortable with and also we as a company felt comfortable with, we could run into problems. We felt as a first step it is better to get the feelings of the employees, take those into consideration and come to the policy that tracks as closely as possible what they are.

(T-1115 -1 follows)



(Mr Wilby)

~~...telling us. That does not mean that two or five years from now we would not have another policy that may be much more stringent.~~

Mr Mackenzie: Two things, and they follow along my colleague's questions, I guess. In June, the Environmental Protection Agency of the United States released a report called ?? "Human Exposure and Dosimetry of Environmental Tobacco Smoke." Without going into all of the details, it makes three specific recommendations or comments: ?? "(a) that ?? ETS is the largest source of indoor air pollution; (b) that ETS is the largest source of human exposure to mutagens and carcinogens; and (c) that current ventilation systems are incapable of controlling ETS, that separation of smokers and nonsmokers cannot reduce the associated health risks unless there is complete physical separation."

You say in your presentation, "We feel strongly that the provincial act is sufficient and realistic and recommend that the Hamilton bylaw be withdrawn. If, however, the Hamilton bylaw is approved, we recommend that paragraph 5 be expanded to allow smoking in..." Then you make a couple of other comments that are reservations on the Hamilton bylaw. The facts that we have had before us so far are clear indications, from most of the health groups and concerned groups before the standing committee on regulations and private bills dealing with Bill 194—which you say is sufficient—that it was not sufficient, and sadly lacking in a number of areas, and efforts to improve that bill failed before the committee.

We now have a Hamilton bylaw. Our concern is that it does not incorporate any of the real concerns that were expressed in the other debate. Most of us want to give the city a chance; if it can toughen it up, it is fine to do it but in effect, you are saying that it should be weakened. Is this the kind of debate we are going to have before the city if it gets the authorization under Bill Pr13? Are we going to have people like yourself before them saying, "Hey, this bill should be weakened or changed to allow for the concerns that you have expressed here," when already it does not include most of the concerns that have been expressed by the health community generally, about the whole smoking issue in the workplace.

Mr Wilby: I guess I would say that perhaps Bill 194 is not adequate. I am not sure. What I am saying is that we think perhaps Bill 194 plus Dofasco's in-house policy is adequate. We think that is realistic. I have a chap working for me who is 60 years old. He has been with the company for over 40 years, he is a chain smoker and has his own office. If we do not allow him to smoke in his office—he is just an example of many—he is going to have a pretty tough time. If his smoking is not bothering anybody—I realize that about the ventilation and all that; I am a nonsmoker myself and I am concerned about that—we try to accommodate as best we can. Again, we realize it is not perfect and does not accommodate the needs of nonsmokers, but if we can get most of the way there, then we think that that is realistic for the workplace, at least in our environment.

Mr D. W. Smith: Yes, I was going to ask another question on clarification that you has asked before. When you refer to this building of yours and because of the nature of the plant, is there smoke in there

Mr DW Smith

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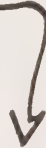
anyway because of the operation, or is that vented off?

Mr Wilby: In that particular building we do not create any smoke to speak of. The smoke that we have is really in more outdoor facilities, such as the coke ovens and blast furnaces. As for the rolling mills, there maybe some steam as we cool the strip, but there is no smoke as such.

Mr Black: I am looking for clarification from you and perhaps then a comment to the city of Hamilton. You talked about what we should be dealing with, as a committee, as enabling legislation. Unfortunately we are spending our time here talking about first of all Bill 194, which I do not believe should be a topic of discussion at this particular forum, and the Hamilton city bylaw which, once again, should not be a topic of discussion of this forum.

It seems to me the problem is that the bill proposed by the city of Hamilton goes into far too much detail because in a sense, it starts to get into the bylaw situation and some of the details of that. I think there are many of us in this room who would support the brief that is going to be presented by Dr Goodyear, but I think this is the wrong forum in which to be debating it. I guess I am looking to you for clarification of the role of this committee. Is our responsibility to approve or not.

(T-1120-1 follows)



~~the bylaw, and some of the details of that. I think there are~~
~~in this room who would support the bill, and the bill is going to be passed~~
~~by Dr. Goodyear, but I think this is the wrong forum in which to be debating~~
~~it. I just think it's better to go to the committee, and if the committee~~
~~committee. It's our responsibility to go to the committee and approve enabling~~
legislation which will enable the city of Hamilton to get into the specifics
of the bylaw?

1120

The Chairman: Your comments are well taken, and it is correct that this is what we are dealing with. The policy of this committee, however, has been to hear people who are concerned with the legislation, and we have adopted that policy at least since I have been chairman. We are always interested in hearing the views of other people, because there are issues to consider other than the strict interpretation of the bill.

But based on what I have heard so far, it is my understanding, for example, that Mr Wilby will be able to make representations to city council, if this bill gets through, prior to the implementation of a bylaw and get his points across because the city of Hamilton does not have to do a thing. It is permissive legislation; it says they "may."

Your comments are correct. However, it has been our policy to hear applicants. I suppose, having said that, if other members of the committee have any concerns about what might happen in the passage of the bylaw, there is another forum for that that will take place, I assume, some time down the road, by council, if this bill is approved.

At this time, I would like to call Dr Goodyear. Perhaps you could come forward.

DR MICHAEL GOODYEAR

Dr Goodyear: I have with me Brian Reid from the Hamilton-Wentworth chapter of the Non-Smokers' Rights Association, who is agreeable to answer any questions from the committee in association with me.

Let me introduce myself briefly, although I see many people here on this committee who were on the Bill 194 committee and therefore know a fair bit about our views. My name is Dr Michael Goodyear. I am a cancer specialist, a medical oncologist and a professor of medicine at McMaster University. I am here speaking really on behalf of a consortium, the Hamilton-Wentworth Regional Interagency Council on Smoking and Health, which has been a consultative party to the development of bylaws and, of course, the process leading to this enabling legislation.

You will see on the second page of my brief the list of the organizations on the council, which you see is a fair cross-section of community groups within the city of Hamilton, although, in view of what we heard from Mr Wilby, I regret to say that we have not as yet maybe got the Ontario Federation of Labour or trades unions adequately represented on that, although I am working on that.

I feel, from some of the things that have been raised to date, that I

must apologize for a couple of things; namely, that obviously not everyone had a chance to study some of the recommendations that we have made. For one reason or another, we got very short notice of the date of this meeting and of the actual form the bill would take.

As Lian Lawrence from the city solicitor's department has commented, this has been a very long process dating back to April 1988 when this started. We actually have not seen anything since July of last year when there were public hearings and, as you say, a draft bylaw was presented.

Unfortunately, the city alderman who is a representative on that regional interagency council was not able to be here today to directly represent the city, but I do believe the city is open to suggestions from us.

The reason I emphasize that time lag is that this is a very fast-moving area and that further medical and scientific evidence is accumulating on almost a daily basis, as is legislation in other areas, so that the arguments we presented to the city in July of last year are, to some extent, being bypassed by developments in other areas.

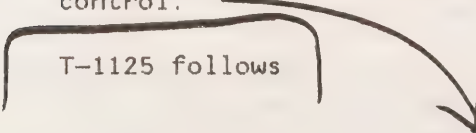
The second major thing that we have discussed here is the relationship between this and the provincial Bill 194. To some extent our efforts have been distracted by the debates surrounding Bill 194, which obviously is now past its original deadline of 1 July. Therefore, we do not consider it to be a major issue at the moment and we are pressing forward with this.

As the government has made quite clear this morning, in the way Bill 194 is worded and in the minister's speech in introducing it, it was never intended to deter municipalities from advancing legislation in this area, most of which has been far more progressive than Bill 194 itself.

Returning to the substance of the brief, we are presenting this brief for three basic reasons:

1. Because we consider environmental tobacco smoke a major public and occupational health problem requiring immediate and drastic measures for its control.

T-1125 follows



(Dr. Goodyear)

2. Although we believe that ideally this should be a provincial matter—and I am really here speaking as a member of the medical profession and of course the various health care agencies whose local members appear on our council—we are united unanimously across this province and our views on this subject have firmed perhaps even further than they did when we were here in April to discuss this before the Bill 194 committee.

We feel that we have to offer employees within the city of Hamilton protection enjoyed by so many other areas of industry and other employers. We particularly refer here to yourselves now as enlightened legislators, the federal and provincial public servants as of January and April of this year, in a few months' time employees in federally regulated industries and those in Toronto-area municipalities which have advanced similar legislation. I will return to that in a moment.

3. I cannot emphasize too strongly that we are here to support the bill in principle, but we have to be consistent in the stand that we have taken on all similar legislation in this area. There are some bottom lines which we would oppose any weakening of, and I have addressed those specifically in our brief. Of course, we are happy to answer any questions that the members may have.

I do not think it is appropriate that I take up the members' time with addressing some of the detailed physical and chemical properties of environmental tobacco smoke—the members have at their disposal the various Hansard reports on Bill 194 in which most of the organizations which are represented in the Hamilton area presented very detailed briefs on this—but I have left with the clerk of the committee my own presentation to that committee, which really summarizes much of that evidence. As I said, many of those people on that committee are here again today.

However, this is a fast-moving field and I would draw your attention specifically—although Mr Mackenzie has already actually alluded to some of that data already. The first piece of information I would draw your attention to is a document called ??Public Participation Hearings, A Report to the Nation, presented by the United States ??National Cancer Advisory Board, a board that was set up by the previous president of the United States, Mr Reagan, to advise him on matters specifically concerning cancer prevention and control and which held a series of public hearings across the nation and presented its report in February of this year. Its members concluded unanimously that smoking should be eliminated completely in the workplace, all public places, public transportation and educational establishments as the first and most important step in the control of cancer.

I would also bring to your attention a statement from the Ministry of Health. We realize that a lot of these issues cross departmental portfolios. On 13 April, the Ontario Minister of Health (Mrs Caplan) issued these revised guidelines for mandatory health programs and services, which were given to all the municipal officers of health, asking them to implement smoke-free workplace policies within their own areas.

Dr Goodyear

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Obviously the whole emphasis on health promotion and prevention rather than treatment was the theme of the throne speech this year at the beginning of the current parliamentary session.

We have had some reference to a very weighty report of which I only present the summary here, the US Environmental Protection Agency report entitled Human Exposure and Dosimetry of Environmental Tobacco Smoke. Some of you may have read reports in the Globe and Mail or seen some current affairs programs relating to this.

From an official US government agency, this is by far the most hard-hitting piece of evidence on environmental tobacco smoke that has yet been presented. Mr Mackenzie has already read into the record some of the key conclusions from that.

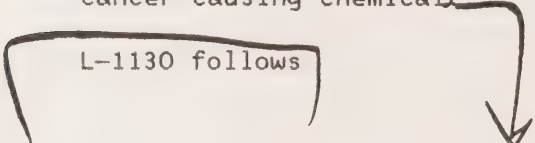
What I would really like you to take home from that is that basically it says there is no such thing as a nonsmoker in the urban working place, that when you do chemical tests looking for cancer-causing chemicals and chemicals that cause genetic mutations in living cells on people in the workplace, you really cannot distinguish between those who are smokers and those who are nonsmokers.

Current ventilation systems within buildings are extremely efficient in making sure that everyone is now a smoker. It requires really only one person to contaminate a whole building. For instance, in one study that was carried out in aircraft, they followed both passengers and flight attendants on that aircraft for up to three days after travelling on a flight that had both smoking and nonsmoking sections.

The chemical constituents in blood, saliva and urine of the flight attendants working in the smoking and nonsmoking areas was very similar and persisted for the three days of the study where they followed them. It is a pity they did not follow them a bit further.

The point we are making is that we can detect very critical levels of cancer-causing chemicals

L-1130 follows



~~... flight attendants working in the smoking and nonsmoking areas was very similar and persisted for the three days of the study where they felt that it is a pity they did not follow them for a bit longer.~~

~~The point we are making is that we can detect very critical levels of cancer-causing chemicals in the body fluids of nonsmokers, allegedly sitting in or working in a nonsmoking area that is not completely ventilated to the exterior, and completely enclosed. The point we made at the 194 committee was that environmental tobacco smoke is a hazardous product and, indeed, is now recognized federally as such, and I will return to that in a minute—as a hazardous product.~~

The Chairman: I do not like to cut you off, but we do have another delegation, and another bill after this one, and I would like you to address your concern with this bill.

Dr Goodyear: Then the last report that I would bring to your attention, since it is very recent, is that on 29 June the federal government proclaimed that Nonsmoker's Health Act coming into force six months following the day of proclamation on 29 December, which will extend restrictions on smoking in the federal public service to federal politicians, federal parliament, the military, the RCMP, crown corporations and all federally regulated industries, including banking, transportation and communications.

The relevance of that is, of course, it will affect another large slab of the Hamilton workforce, if you consider the federal and provincial public servants. So that what we will find is a very large portion of the Hamilton workforce working under federally regulated conditions or Ontario government regulations, which provide them with a large degree of protection from environmental tobacco smoking, which we would like to see extended to all employees in Hamilton.

Clearly, I would emphasize that the bottom line, as far as we are concerned, is that there has to be a smoke-free workplace, and I mean a completely smoke-free workplace. Obviously the simple thing would simply be to eliminate smoke from the workplace completely. In dealing with companies, I have no doubts in my mind, nor have any of my colleagues, that those organizations that have completely eliminated smoke from the workplace find that is much the easiest policy to follow. It is more acceptable to employees and easier to enforce and it is generally cheaper to go along with.

However, clearly some employers and employees will want to find some middle line in which they will allow some designated smoking areas. I use that term loosely. We consider that the only acceptable solution, if that line is pursued, is to completely quarantine tobacco smoke, which means that if tobacco smoke is generated in the workplace, it has to be in a separately enclosed area that is ventilated to the exterior and has no communication with the ventilation systems within the rest of the building. Otherwise, everyone in the building becomes a smoker.

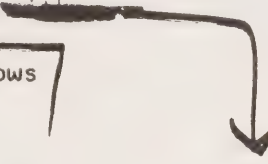
You will see that the major recommendation that we are making really is to remove any reference to designated smoking areas. You will notice that they generally occur in conjunction with the phrase "designated smoking room," which we can define as a separate area. A designated smoking area really has no relevance whatsoever. To put up a partition and say that this is a smoking

area and a nonsmoking area and tobacco smoke must turn around when it reads that sign, is clearly not acceptable to us. We would urge the committee to provide at least that minimum standard within which the city will legislate in terms of drafting bylaws and looking from the broader perspective, clearly any other municipalities that come before this committee will clearly be looking at enabling legislation that has gone before, just as we have heard from Lian Lawrence that they looked at similar legislation relating to the cities of Toronto, Etobicoke and the town of Markham.

That really is our bottom line. We have also commented on the fact that it is strange that 80 per cent of an eating area was allowed for smokers. This is a very old figure and relates to some public place legislation in place since the previous decade. I would point out that a federal government survey on smoking in the workplace showed quite clearly in 1986 that 28 per cent of the adult workforce was currently smoking and that prevalence of smoking was declining by one per cent per year. Therefore, we would estimate that the current figures would be about 25 per cent. We think that any reference, and indeed I guess those figures are enshrined by the Minister of Labour (Mr Sorbara) in the sense that he used that figure. I do not argue too strongly about the exact figures, but I am just commenting that we should realize that smoking is a minority habit.

In terms of the time delays, I would just switch briefly to comments from Mr. Wilby of Dofasco. Again I would wish to add to comments made on this side of the committee, that we of course congratulate Dofasco for having introduced a smoking policy within their plant, but we do not accept their suggestions

1135-1 follows



~~_____~~
~~_____~~
its plan, but we do not accept the suggestion that this legislation either should be withdrawn or should be in any way watered down. I think it is quite clear to you that we have very strong views on this matter.

I do not think—and I have not worked specifically with employees within Dofasco, but certainly across industry as a whole—that what he says really reflects the view of smoking employees. Our data—and it is very consistent and, again, it is alluded to in this federal government report—is that when you talk to, interview or give questionnaires to smoking employees, at least 80 per cent of smoking employees want smoke eliminated from the workplace.

This and a similar report from the Australian public service, which is also smoke-free, quite clearly show that the reduction in cigarette consumption by a smoking employee when a smoking restriction in the workplace comes in is in the order of 25 per cent. That is an average of 5.8 cigarettes a day. There is a major decrease in cigarette consumption and therefore an increase in the health of that employee, and there is an increase in the annual quitting rate, which is about one per cent to four per cent. Smoking employees want restrictions in the workplace.

The Chairman: We are running out of time. I would like to open the floor to questions. I am going to have to deal with it, because we have, as I have said, another bill to deal with.

Dr Goodyear: I do understand. Thank you for your indulgence.

Mr Mackenzie: On a personal basis, I am curious as to why you have sort of headed up this campaign. I recognize the weight of the groups that are associated with you, but is your own profession and specialty, cancer, one of the reasons why you are involved in this campaign directly?

Dr Goodyear: Absolutely. As I said to the committee on Bill 194, my opening remarks were that although I officially represent these national organizations, really those I am here to represent are my patients and their relatives. The sheer frustration of having people die unnecessarily—and we estimate 17,000 unnecessary deaths in Ontario per annum—when something can be done about it is just overwhelming. When you know the cause of a disease, when all the medical and scientific research has been done, and the answer is a political one, it is just so frustrating. So, I have become, if you like, a part-time politician.

Mr Mackenzie: The second and only other question I have is, our reservations with Bill 13 are obvious; that is, it does not have the real shortcomings that were in Bill 194 covered in it. We have the argument that this may or may not be a possibility in terms of drafting the actual bylaw in Hamilton. I suspect that it is going to be about as difficult there as it was here in the Legislature to make any of these specific changes.

However, on balance—I am having difficulty with it myself, so it may not be a fair question to you—is it better to give this enabling legislation, with all the weaknesses, because we really do not see that it is any better than Bill 194 was, and hope that maybe the city runs with it better than we were able to in the House or not?

Dr Goodyear: That is an interesting question. I think, on balance, it is a stronger piece of legislation than Bill 194 was, but its major defect, and I suspect that is really just a matter of oversight, is that it fails to completely isolate the tobacco smoker. I would like this committee to communicate not only to the city of Hamilton but to other municipalities, and of course, to the province as a whole, its concerns with that particular issue by making that change. I still think it is a progressive step, and as I have said, obviously, the city is amenable to other suggestions. But it has been a long time since we last appeared before them on this issue and on the specific recommendations.

In terms of the fact that the enabling legislation sets a certain minimum standard within which the city can manoeuvre, we would like to see that loophole, if you like, eliminated.

Mr Keyes: I believe that the issue before us here is to provide an opportunity for the city of Hamilton to have enabling legislation, and as has already been referred to by Mr Black, it may be somewhat too specific for some persons' liking as far as section 2 of the bill is concerned. Nevertheless, that is what they have put before us, and I think our job is to decide whether it is appropriate that such a private bill be passed.

There seems also to be some confusion even in the supporting documents. The one from the Canadian Lung Association consistently refers to the passing of a

1140 follows



(Mr Keyes)

~~... I think the bill is also to be some confusion ...~~
~~... The ... from the Canadian Lung Association ...~~
~~... bylaw. We can perhaps assume that they are~~
referring to the private bill here, but they do consistently refer to that.

1140

The interagency council on smoking and health also very strongly urged the support of this bill so that the enabling legislation is there. So I believe, personally, that the role of this committee now, having heard the depositions, should be to pass this bill which will allow, then, persons who feel that it does not go far enough, such as Dr Goodyear—although in his submission he says he supports the bill on principle, he has asked for a minor reservation. I do not know what the definition of "minor" is in his mind. Some of you might feel that there are major reservations when he talks about changing, particularly getting away from designated smoking areas throughout the entire bill. That, again, I think, is his association that he represents and all of these groups to be determined as Hamilton does come forward with a bylaw.

I would suggest that having heard it, we should carry on a vote in support of this bill to allow them to enact the bylaw which does, and I totally support the concept, reduce the amount of smoking in general in the workplace, be it in offices or elsewhere.

The Chairman: I think there are two other members who want to ask questions. I would like you to keep the questions to a minimum. I would like to have this completed in five minutes because we do have another group that is here and has been waiting a long time.

Mr Sterling: I would like to ask the city solicitor her reaction to the proposed amendments put forward in the brief by Dr Goodyear. Number 1 is if we took out designated smoking areas, I believe is the thrust of his amendment, and number 2, which I consider much more minor, concerns the 80 per cent figure. Is either one of those amendments acceptable to you?

Ms Lawrence: I would suggest that it would be more appropriate to deal with those amendments at the local level after we have the legislation in place. The 80 per cent, for example, is a maximum, so it is the outside and it gives us a lot of latitude to reduce it again at the bylaw stage. It would also mean making an amendment to our public places bylaw in order to achieve consistency with the two. That is where the 80 per cent came from.

With respect to the smoking areas deletion, with respect, I would prefer to see it remain at least in the bill for two reasons. One, it is permissive legislation and we may or may not need to use it, but it is there if our political decision-makers elect to use it. Second, what I would anticipate is that we have not yet at the local level thoroughly dismissed, I guess, the idea of designating certain portions of eating rooms as smoking areas. That is still open for discussion, but it has not been given, quite frankly, the discussion that it deserves. So, assuming that at the local level

Mr Lawrence

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our political decision-makers may wish to incorporate that into our bylaw, I would prefer to see the provision in the bill.

Mr Allen: I would be happier with that response if I heard more indication that there seemed to be some real effort at the Hamilton end to develop some more advanced bottom lines on the question. If clause 2(1)(c) is important because you want the latitude to be able to establish designated smoking areas in meeting rooms, then that indicates to me that the whole point of Dr Goodyear's presentation and the arguments that many of us have made on this kind of legislation in the past have not been understood or accepted if they have been understood.

~~Some of the arguments put forward by the province are~~

T-1145 follows



(Mr Allen)

~~... that the whole point of Dr Goodyear's presentation and the arguments that~~
~~many of us have made in this kind of legislation in the past has not been~~
~~adequately recognized. It is not that we have not~~

Somewhere, at some point, the province or municipality is going to have to declare a very firm bottom line on this question which recognizes that it is simply not an option to have designated smoking areas within common areas of ventilation. It is as simple as that. If I had heard the solicitor from the city of Hamilton telling us that there was indeed a strong inclination to move in that direction at the municipal level, I would be an awful lot happier.

I notice also, for example, in subsection 2(2) it reads, "A bylaw passed under clause (1)(g) may require that designated smoking rooms in a building or structure constructed after 1991 be ventilated separately from the remainder of the building or structure." I would have been happier if the city was telling us that it was not going to permit any building to be built that did not already have plans in it in the ventilation system for a separately ventilated smoking area. That would at least secure the future.

What we have here is really a very—if you will excuse the word—weasely sort of clause which says that, well, yes, a bylaw might be passed and it might suggest that in that building that is constructed after 1991 there might have to be separate ventilation, but the building can be constructed, and once it is constructed it is almost impossible, architects tell us, to really redesign sealed-air buildings, for example, in such a way as to provide that. You are really not advancing the cause at all, it seems to me, with that particular clause.

At the risk of giving perhaps a wrong message—and I want this to be understood—to the city of Hamilton, because I understand the government members have been given the government message and the government message is that this bill is to go as it is regardless of improvements that might be made in it, I am going to ask the committee to entertain an amendment with regard to clause 2(1)(c) which would read that smoking areas—

The Chairman: Could you just wait until we get to the section before we talk about amendments so that we do not get the issue confused?

Mr Allen: Okay, and I just want to underline the fact that clause 2(1)(h) really is a major problem. I do not understand why the city would ask for 80 per cent when surveys of people, of the public at large, indicate that something like 28 per cent of the public smokes. If 28 per cent of the public smokes, then the highest figure that ought to be available for a smoking area in a public restaurant ought to be 28 per cent, certainly not 80 per cent.

Why does one want that latitude? You do not need it in terms of the performance of the public. What you need is something that is going to give you an opportunity to move in on the figure of 28 per cent, rather than the opposite. I think that is also a valid subject for an amendment.

The Chairman: I think we have heard sufficient. I would like to put the question. We are dealing with Bill Pr13, An Act respecting the City of Hamilton. Shall section 1 of the bill carry?

Section 1 agreed to.

Section 2:

Mr Sterling: I have an amendment to clause 2(1)(h). I believe Mr Allen had an amendment to 2(1)(c) which would proceed my amendment.

The Chairman: For the purposes of keeping this thing aboveboard, Mr Allen, you are not properly a substitute at this committee. Perhaps Mr Morin-Strom can move it for you.

Mr Morin-Strom moves that in clause 2(1)(c) the last four words "and designated smoking areas" be deleted.

Mr Polsinelli: I do not think we can support that amendment in that it restricts the powers that the city would have in terms of passing its legislation.

~~The Chairman: Any questions? All those in favour of the amendment...~~

T-1150 follows

1150

~~Mr. Polsinelli: I do not think we can support that amendment in that it restricts the powers that the city would have in terms of passing its legislation.~~

The Chairman: All those in favour of the amendment? Those opposed?

Motion negatived.

Mr Keyes: On a point of order, Mr Chairman: I hate to raise it, but I note three members voting for the NDP.

The Chairman: I am well aware of what is happening.

Mr Keyes: Only two are allowed in this committee. I have not read this morning's newspapers. It is possible one did cross the floor.

The Chairman: For purposes of the record, Mr Allen is not a voting member of this committee.

Mr Sterling moves that clause 2(1)(h) be amended by striking out "80" in the second line and inserting in lieu thereof "30."

Mr Sterling: I think by putting "80" in, we set the wrong benchmark for people who are reading this legislation and for municipal councils. In that the provincial government has already said that 25 per cent is sort of the hallmark, I have allowed perhaps even a larger percentage than some would agree with, but knowing that 28 per cent is not—it is a general average, it is not an average in every work situation. I think 30 is more appropriate.

Mr Polsinelli: I would like to make the same comments with respect to this amendment as I did on the amendment to clause 2(1)(c). It is my feeling that it would restrict the council's ability in terms of passing its bylaws. If council did feel that 80 is an appropriate figure, they could reduce that figure to 25, 50 or anything they wanted.

The Chairman: All those in favour of the motion?

Mr Sterling: Just a minute, Mr Chairman. It is nice for him to respond, but it is my motion, too.

I would hope that the Liberal members of this committee would from time to time look at a situation and draw a different conclusion than the government may want to draw with regard to giving a municipality anything and everything it would like in a piece of legislation. I think there is a responsibility on us as members of the Legislature to say, "The standard you have set in your legislation is not high enough."

This particular amendment is really a Mickey Mouse amendment in terms of the total picture in dealing with this whole situation. I would only hope that members of the government side could exercise a little discretion the odd time in this Legislature in drawing a conclusion and supporting this very small amendment.

Mr Polsinelli: I would simply like to comment that the government's position on this bill is that we have no objection, that is, that the members of this committee are free to move in any direction they want. My comments are simply along the lines that the city of Hamilton has requested this specific piece of legislation.

In reference to this particular section, they are asking for the figure of 80 per cent. It is within their mandate in passing the bylaw to use a figure of less than 80 per cent. That is the maximum figure they are allowed, not the minimum figure.

So my comments were specifically directed to the council's ability to pass its bylaws and not to the direction that the Liberal members or any member of this committee should take.

Mr Morin-Strom: I would like to speak in support of the amendment, as well. I am very surprised that the government members refuse to take an independent position on this, particularly the acknowledged drug expert in the government, the member for Muskoka-Georgian Bay (Mr Black) who has looked at the problem of drug use across the province and certainly must have some views with respect to the need to take a responsible approach to limiting the contamination of workplaces and in this case eating places with respect to smoking, one of the most dangerous and lethal drugs in the province today.

~~Mr Black: I think I have to respond by saying we are not talking here about responsible positions, we are talking here about~~

T-1155 follows

~~being placed with respect to smoking, one of the most dangerous~~
~~drugs in the province today.~~

Mr Black: I think I have to respond by saying we are not talking here about responsible positions. We are talking here about a specific piece of enabling legislation, and my vote will be cast on that basis. I would appreciate it if you would keep partisan politics out of this committee.

The Chairman: Thank you for that—

Interjections.

The Chairman: Order, please.

Mr Allen: I was glad to see Mr Polsinelli relieve the government members of all obligation to follow his advice just a moment ago.

With regard to the substance of his objection to the amendment, the notion that somehow it is improper because it restricts the municipality, it puts in question everything that this Legislature does with respect to municipalities, which are, after all, constitutionally creatures of the province. The objection is really not just irrelevant; it is quite absurd.

The bill itself that we are proposing to pass places numerous restrictions. It is up to us to evaluate the restrictions in terms of what we, in our best thinking, believe to be in the best interests of the people of Ontario. We have been told by health agencies of all kinds, unanimously, what is required in this respect in terms of the general pattern of restrictions necessary. There is nothing improper with this committee's laying those kinds of restrictions on a municipality when it feels it is appropriate.

Ms Collins: I just want to say that I find it strange indeed that all this is going on. I happen to have been here several months ago when the city of Etobicoke and the town of Markham asked for similar legislation. I think someone already mentioned that the city of Hamilton's request is seen as stricter than those in those other municipalities, so I guess I am having difficulty with this committee's treating the city of Hamilton differently from the town of Markham and the city of Etobicoke. I would ask the members of the committee to put aside these partisan remarks and to get on with passing the enabling legislation to allow the city to do what it wants to do.

The Chairman: Thank you. That is just about what we are going to do. Mr Sterling, this is the last comment.

Mr Sterling: I understand, but the reason for my wanting the amendment is that 80 per cent gives the wrong signal to people out there in the workforce and it gives the wrong signal to municipal councillors as to what the real problem is, etc. I have in front of me the town of Markham's bill. It does not say you can allow 80 per cent designated smoking areas.

Legislation is legislation, some may argue, but it is also read in the context of what the intent of the legislators was when they made it. They will not read these comments; they will read the bill. My fear is somebody will pick up the bill and say "80 per cent."

The Chairman: That is not what it says, in fairness. It says "not exceeding 80 per cent."

I would like to put the question, please. The suggested amendment is to clause 2(1)(h), to change "80" to "30."

All those in favour of the amendment?

All those opposed?

Motion negatived.

Sections 2 to 5, inclusive, agreed to.

Preamble agreed to.

Title agreed to.

Bill ordered to be reported.

~~The Chairman: The bill is agreed to.~~

T-1200 follows



1200

SOUTH SIMCOE RAILWAY HERITAGE ACT, 1989

The Chairman: The next item on our agenda is Bill Pr21, An Act respecting South Simcoe Railway Heritage Corporation. Members will be aware that we heard extensive representations the last time this bill came before us and it was adjourned until a future date and that is today for a number of reasons. First of all, there was some concern, as I recall, that the position of the local municipalities was not clear to the committee. In addition, there was information that was required from the Ministry of the Environment and the Ministry of Transportation.

We have with us this morning, Ian Chadwick from the Ministry of Transportation, Ed Piché from the Ministry of the Environment and perhaps if they could come up beside Mr Sterling so that if questions are asked of those ministries we will have them to answer the questions.

Would you identify yourself.

Mr Piché: I am Ed Piché, director of the air resources branch, Ministry of the Environment.

The Chairman: Is Mr Chadwick here? Could you come forward? For the purposes of Hansard, would you identify yourself, please.

Mr Chadwick: My name is Ian Chadwick. I am manager of the rail office, Ministry of Transportation.

The Chairman: Mr Sterling, you are substituting for Mr McCague?

Mr Sterling: Yes. I am appearing for Mr McCague who is ill at this time and would like to introduce John Freyseng and Brian Davis. Mr Freyseng is the counsel representing the South Simcoe Railway Heritage Corp and he is accompanied by Brian Davis. There are also other representatives which Mr Freyseng will introduce during the hearings, if necessary, to show the support of the community for this.

Mr McCague asked me to indicate to the committee his wholehearted support for the South Simcoe Railway Heritage Corp and its intention to run this small railway from Tottenham to Beeton. He believes that it will be a very important economic advantage given to the area and he wanted me to portray that to the committee.

The Chairman: For purposes of the record, we have received exhibits which should be identified. We received an exhibit from the Corporation of the Village of Beeton, which in essence supports the application, the Corporation of the Township of Tecumseh that it supports the application. I have difficulty reading that one. I will come back to it.

There are some private citizens who have also sent—there is a Del and

The Chairman

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Margaret—I cannot make out the last name—and there is a Mr Briscoe. So we do have at least from those two townships, Tecumseh and Beeton, the information that they in fact support the application.

Mr Sterling: I believe some of those municipal leaders are here with us. Mr Freyseng may summarize that for us.

The Chairman: I think what I would like to do first, though, is perhaps hear from the Ministry of Transportation and actually the government position after having reviewed—

Mr Morin-Strom: I think you made a statement that the town of Beeton supported this and my riding of its motion is qualified support, and it is subject to the approval of the MOE. I think the environmental concerns have to be addressed.

The Chairman: I am sorry, thank you for correcting that. We will get the MOE input at this stage.

Mr Polsinelli: As the committee is well aware, this bill establishes the corporation's authority to operate an excursion train and sets out certain limits to that authority.

The limits are simply that the Railways Act applies to the corporation in respect of the railway operation, that the Ontario Municipal Board shall not approve an application of the corporation unless the Ministry of Transportation certifies that the equipment, track and operating procedures permit the railway to be operated safely. I

T-1205-1 follows



(Mr Polsinelli)

~~the limits of that authority.~~
~~It is my understanding that the Railway Corporation of Ontario, in its capacity as a public body, is required to comply with the provisions of the Environmental Protection Act.~~
~~It is my understanding that the Railway Corporation of Ontario, in its capacity as a public body, is required to comply with the provisions of the Environmental Protection Act.~~
~~It is my understanding that the Railway Corporation of Ontario, in its capacity as a public body, is required to comply with the provisions of the Environmental Protection Act.~~

In addition, it is my understanding that the Environmental Protection Act applies and that prior to the operation of the railway, certificates of approval are required from the Ministry of the Environment under the Environmental Protection Act.

We have both Ed Piché from the Ministry of the Environment and Ian Chadwick from the Ministry of Transportation here today. They will be prepared to answer specific questions put to them by the committee in terms of the implications of this legislation.

Accordingly, it is my understanding that we have no objections to this bill's proceeding.

Mr Morin-Strom: I would like to raise concerns with respect to the letter we have from Gary Posen of the Ministry of the Environment. I would ask Mr Piché if the Ministry of the Environment has undertaken any kind of examination of what is currently operating on this line now, or what is proposed to operate on this line, and their expectations that they will be able to meet the environmental laws and regulations for the province.

Mr Piché: As indicated earlier, there are several sections under the Environmental Protection Act with which this operation would have to comply.

Subsection 8(1) of the Environmental Protection Act I think is an important one and perhaps the most important one here which requires a certificate of approval. Independently of the magnitude of this operation, there would be noise and vibration generated and there would be emissions from the operation of the locomotive, which would require the certificate of approval.

Within the limits of that certificate and within prescribed limits of the environmental concerns, it is likely that such a certificate could be given for operation as long as the owner of the corporation complied with all the specifics under the current legislation.

As to whether the Ministry of the Environment at this time specifically has looked at the physical dimensions of that particular operation, I think the answer at the moment is no, it has not at this time. Normally, under such circumstances, because of the size and magnitude of it, we would not investigate the specifics until such time as a certificate of approval was submitted. Then there would be an investigation.

To the best of my knowledge at this moment, although the certificate of approval is not my direct responsibility, we usually provide technical advice to the approvals branch.

I suppose we would have to ask the corporation whether it has submitted the certificate of approval or is in the process of submitting it at this particular time.

The air resources branch was not consulted because the certificate was in; we were consulted because this committee has requested our being here. This was the first that I had heard of this South Simcoe Railway Heritage Corp.

Mr Morin-Strom: I wonder if we could find out if the certificate of approval is in process then.

Mr Polsinelli: I would like to point out to the committee that what this bill does is establish the corporation. It is really kind of preliminary to ask them whether they have obtained certificates of approval if legally they do not exist yet.

Mr Morin-Strom: My understanding is that the operation is already in effect. Is that the case? Have any trains operated?

The Chairman: Yes.

Mr Freyseng: My name is John Freyseng. It is a privilege to be here before you. I am a lawyer and also a director of the South Simcoe Railway Heritage Corp.

To answer the member's question, trains have been operating specifically for the purpose of rehabilitating the right of way. There have also been one or two movements of limited nature with respect to showing the members the equipment. There is absolutely no operation whatsoever for the purpose of benefit of the public, for the matter of carrying anything in the way of public necessity, for profit, gain or any other use.

~~The Chairman: Just before we get on, if I might correct, I did~~
indicate we had
t-1210-1 follows

~~operation of the South Simcoe Railway Heritage Corp. is the only way of the public~~
~~the matter of anything in the way of public necessity, for public~~
~~for gain or for any other purpose.~~ It is simply to facilitate in the
rehabilitation of the right of way.

The Chairman: If I might, just before we get on, I did indicate we had letters of support. I did not indicate that we had petitions from the village of Beeton and the village of Tottenham, which were opposed to the application, just to get that on the record.

Mr Freyseng: There is one other item that I believe was delivered here but seems to be missing, and that is from the corporation of the village of Tottenham. At a meeting of council of the corporation of the village of Tottenham, a resolution was passed on 21 June 1989 ?? "That the village of Tottenham fully supports the Tottenham chamber of commerce request for special legislation from the province of Ontario to allow the operation of a heritage railway line and that a copy of this resolution be sent to the province, the Ontario legislative committee dealing with the matter," by mail and to table that with the clerk.

The Chairman: I think we had that in the original documents. Any further questions?

Mr Morin-Strom: The last time the various representatives were here on this particular issue, we had heard that the primary purpose of the operation, at least in the initial stages, was not a tourist operation or one for either the conveyance of goods or the general public, but in fact was for the purpose of allowing club members to operate the rail equipment, and that this was a hobby for club members and this was a hobby activity.

I wonder under what authority the club is operating equipment. I notice you gave quite specific qualifications for what you are not doing, but you did not state categorically that the club is not operating the equipment for the purpose of its own hobby interests.

Mr Freyseng: First of all, this is not a hobby club; far from it. South Simcoe Railway Heritage Corp is, in fact, a corporation existing under Ontario legislation; that is, the Ontario Corporations Act. It was first incorporated in the early 1950s as the ??Toronto Train Trip Association. It has had a number of changes of name by way of supplementary articles of amendment. What this bill is after is to allow it to become a company capable of being a railway company, because the Ontario Corporations Act has a specific prohibition against incorporating a company to operate a railway under that act.

It is a nonprofit corporation. It has members and has had members, as I say, since the mid 1950s. The memberships ranges around 200. It is not a hobby at all.

The purpose of it, in essence, is to preserve equipment that is of a historical nature in that particular area of transportation. In addition, it was the hope of the members and those who support the South Simcoe Railway that this equipment could be operated. That is where the chamber of commerce of Tottenham and Beeton entered into the area. They were the ones that were able to provide the basis for the right of way to operate the equipment.

In return, they would like to have a tourist train operation, in effect—I might add it is not just with the steam locomotives; it is also with diesel, so you have the two types of power—for the purpose of adding to the commerce and generating tourism for this area.

When you say, "What authority?" there are bylaws with respect to the South Simcoe corporation. There is a properly elected board of directors that is representative of the chamber and of the members of South Simcoe. It is under those bylaws that they strictly govern the activities of the operation. It is not some ad hoc, fly-by-night group of enthusiasts who are running a hobby.

Mr Morin-Strom: In Mr Polsinelli's remarks, he had indicated some concerns the government had with respect to both the Ministry of Transportation and the Ministry of the Environment and what kinds of stipulations they would have on the operation of this railway. Has either of those ministries ensured that the current operation of the ministry fits within the concerns that you have expressed?

Mr Polsinelli: The concerns were expressed by members of the committee at the last meeting, and that is why we have the representatives here today from the Ministry of the Environment and the Ministry of Transportation to answer committee members' requests and questions.

~~Mr Morin-Strom: Go to T-1215-1~~

(T-1215-1 follows)



At the last meeting and that is why we have the representative today from the Ministry of the Environment and the Ministry of the Transportation to answer committee members' requests and questions.

Mr Polsinelli: Perhaps I should say it again. Representatives of the Ministry of Transportation and representatives of the Ministry of the Environment are here at this committee's request. Members of the committee, at the last meeting, had some concerns; they wanted some questions answered and that is why we endeavour to have representatives of the Ministry of the Environment and the Ministry of Transportation here today. If you have specific questions, you can direct them to either of those representatives of those ministries.

Mr Morin-Strom: I would ask the representative of the Ministry of the Environment whether you have ever been approached by the South Simcoe Railway Heritage Association with respect to doing the determination of whether the current operation meets the environmental regulations of the province.

Mr Piché: To the best of my knowledge no, but the approach would not be through me, through my branch, it would be through the approvals branch or regional operations. That is why it qualifies, to the best of my knowledge.

Mr Morin-Strom: I would ask the same thing with respect to Mr Chadwick from the Ministry of Transportation. Have you had any involvement with the South Simcoe Railway Heritage Association or had the opportunity to examine whether the current operation is fitting within any legislation or regulations within your purview.

Mr Chadwick: We have been approached by representatives of the South Simcoe Railway on one or two occasions. On the earlier occasion they were contemplating how they might proceed in order to incorporate and we had discussions with respect to the need for a private member's bill.

Subsequently, we were asked if we could contrive an inspection of the track as it stood then, so that we could provide them with advice as to any shortcomings in that track so that they could improve the infrastructure with a view to, over time, improving it in order that they might operate. As to present operations, it is my understanding that there are essentially no operations apart from work necessary to improve the track.

The Chairman: This bill is simply is going to incorporate the association. Just for clarification, perhaps from Mr Piché, in the event that they are incorporated, I assume that they would have to then comply with all environmental regulations.

Mr Piché: Exactly.

The Chairman: And Ministry of Transportation regulations, as well?

Mr Chadwick: That is correct. At the time that the railway made application to operate either public passenger services or freight operations, they would require a licence from the Ontario Municipal Board. Under the terms of this act, we would be required to certify to the board that the railway had the wherewithal to operate safely in terms of its equipment, operating rules, rolling stock, etc and there would be inspections made.


Mr Mackenzie: I am glad you mentioned that there was also a petition opposed to the bill. I was not at the meeting a week ago unfortunately, due to other commitments. But I was reading the letters of support here today. I notice one in particular from a ??J. M. Briscoe, who says in the first paragraph, "It is my understanding that on June 7, 1989, the regulations and private bills committee heard representations on the abovementioned bill including three residents of Beeton who made arguments against it. The fact that only three residents out of the communities of Beeton, Tottenham and the entire township of Tecumseth should indicate the marvellous support this project has from people of this area."

When I look at the petition opposed to it, and I have no knowledge of the issue other than what I have read from the documents here today, I find a petition that has 63 names on it in opposition to it. So I guess I would like some answers. Forgive me for being a little bit suspicious of a letter saying, "Hey, only three people are opposing this," and then finding that we have a petition before us raising a couple of specific questions, with 63 names in opposition to this bill.

The Chairman: I think to be fair, at the first hearing, there were three members, three residents who were opposed to it. I do not know when this petition was gathered. I assume it was gathered from that day until now, so I do not think the comments are inconsistent. I think that this probably happened after the last meeting.

Mr Mackenzie: To my mind, it gives at least as much weight to the petition as the five letters here, I think it is, although one or two of them represent municipal bodies. But they give at least as much weight as the letters that seem to be supporting it.

T-1220 follows



[REDACTED]
[REDACTED]
1220

Mr Mackenzie: The given [REDACTED] petition. I think there are five letters [REDACTED] although one of the [REDACTED] represent a manuscript [REDACTED] the letters that [REDACTED]

The Chairman: I apologize for not noting that, but I was peeling through papers. It is noted that there is some opposition.

Mr Freyseng: We have not seen the material. Do you know the date of the petition?

The Chairman: It is 29 June 1989.

Mr Mackenzie: You were not aware of that?

Mr Freyseng: No, we have not seen a copy of it.

Mr Mackenzie: It simply says:

??"We, the undersigned"—they have crossed out 'from the village of Beeton'—"oppose... We believe and understand that if Bill Pr21 is passed, then CN can sell the abandoned rail line between Tottenham and Beeton to South Simcoe Heritage Rail without following the ethical and precedent-setting procedure of past sales. They will both then be two incorporated rail bodies. If the abandoned line has already been sold to another group, then the procedure was not followed.

??"From an environmental standpoint, we object to the use of any kind of coal as a fuel and the sulphur dioxide emissions that they produce."

If you count them up, there are 63 names on the petition.

The Chairman: I think, to be fair, we dealt with the issue about whether the procedure was followed at the last meeting. It is not something this committee can deal with. If they feel that the lands were not properly conveyed, there are other avenues to pursue.

Mr Black: I just want to follow up on that view. It is my understanding that once again what this committee will be doing will be authorizing the corporation to go ahead and make application for approval to operate, and there are other agencies set up that are designed to give those approvals or to withhold them. The people who oppose this railway will have the opportunity to make presentations to those appropriate agencies. Is that correct?

The Chairman: That is certainly my understanding.

Mr Mackenzie: I think the other thing that has just been brought to my attention by my colleague, which adds some weight to the concerns and to the reason I would like to know a little bit more about it, is that at the last

meeting, apart from the support there may have been, at the meeting three weeks ago there were actually six letters also in opposition to this. Whether they are similar to the names that are on the petition or not, I do not know, but it would indicate to me that there is more than just a little opposition to this particular bill in the community.

Mr Keyes: I notice that on our agenda today it does indicate three private citizens who wish to appear. I suggest that we hear from them now, because I notice two of those names are also on the petition against the operation. Perhaps we should ask those three citizens to come forward and state their views, which then might give Mr Mackenzie some further elaboration on their concern. Whether they are the same names, at least they are spelled the same and have the same—

The Chairman: Frankly, I was not intending on hearing from them unless a major issue came up. We have already heard depositions from these members. If it is your wish that we hear from them, it is up to you, but before we get on to that, Mr Sterling has a question.


Mr Sterling: As a member of the committee, I would not equate a petition by 63 people with the support of all the townships and towns involved, including the local MPP, who have all given this particular legislation their wholehearted support. All of those politicians have to react to a much larger body of people, and I think there is general indication in the community as a whole that there is pretty significant support for this incorporation, as has been mentioned, I think, three or four times.

Those people who have environmental concerns, including the town of Beeton, will have their opportunity to put those forward. All we are doing here is considering an incorporation which is prohibited from being incorporated because of the structure of our Business Corporations Act in Ontario. There will be an Ontario Municipal Board hearing to consider all those other kinds of objections.

Therefore, I think the issue here is that there is significant support by the elected officials of the area that we should go ahead and incorporate, and then these objections can be ferreted out in terms of the environmental concerns and other concerns of the property owners who are adjacent to the line.

Mr Mackenzie: Do not close the barn door after the horse is out, Mr Sterling. It seems to me we should at least be giving the opportunity to those who want to raise their objections. I do not see 63 as being an insignificant number. It may very well be that the elected officials who have written to us represent a larger number. I am open on it. As I say, I do not know the details of it, but there—

T-1225 follows



(Mr Mackenzie)

~~it may very well be that the elected officials who have written to us~~
~~representing a number of people in the area. I am not sure if they have~~
~~details of the opposition that I would be concerned before~~
I would want to see this bill proceed.

The Chairman: We do have three members here who did appear before us before. Is it the pleasure of the committee that we hear the members?

Mr Keyes: I will just comment that I would hear them for the sake of Mr Mackenzie because he was not here before, but I would ask that you caution the people who are here that they make their representation very briefly and on the basis of their opposition against the incorporation of this organization, not to some of the things alluded to, perhaps quite inappropriately, in the preamble to their petition.

The Chairman: That point is well taken. Is it the pleasure then that we hear from them?

Agreed to.

The Chairman: Let's hear from them. We are running out of time. Mr Ellis, Mr Anthony and Mr Newson, would you gentlemen come forward, please, and sit along there so that we can get a microphone near you. For the purposes of Hansard, would you please identify yourselves?

HOWARD NEWSON
DON ELLIS

Mr Ellis: I am Don Ellis. I think perhaps we ought to let Mr Newson speak for both of us since you want to keep this to a minimum.

The Chairman: All right. Mr Newson, you have heard the comments from all the members here this morning. You know the information we have before us. We have the comments in Hansard from the last time, and perhaps you could direct your comments to what is at hand this morning.

Mr Newson: Yes. I would like to turn my attention to the petition from the villages of Beeton and Tottenham. There was mention of 63 people on it, but what is also important is that of those 63 people the majority are all in close contact with the rail line. They are the people who are going to be affected the most in regard to the environmental issues that were raised here on 7 June.

In the southwest sector of Beeton, the name of every soul that lives along that track is on that petition. In between the villages of Tottenham and Beeton, there are people in the rural areas who have signed that petition with the same feelings that we have.

I would like to go back to the Beeton resolution and make the committee aware that there was one member who could not make an arbitrary decision on Bill Pr21 because he felt that the issues raised with Bill Pr21 had not been brought before a proper public forum in our area. As a matter of fact, when I was petitioning, I made it a point to ask everyone, "Have you heard of Bill Pr21?" Not one person ever heard of Bill Pr21 or what it meant. As a matter of fact, some of them never even knew there was a rail project going on. I think

Mr. Newson

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the community relations in the last year or so, or maybe more, have been very poor.

There is a second member of that Beeton council who did not agree with the wording of the resolution and thus had amendments made to it. Although the resolution did pass, it did not pass unanimously; it did not pass without questions, again, concerning the environment.

I question the Tottenham resolution because I found out in the last week or so that the Tottenham Chamber of Commerce, I believe, owns the rail line. I also found out that the majority of the members of the Tottenham council are also members of the chamber of commerce. I do not believe that the proper quorum was there to pass that resolution if that is the case.

~~I am sorry I have to excuse my ignorance of the environment
the issue is really not at issue here. As the chamber of commerce owns it
I am sorry I have to excuse my ignorance of the environment
the issue is really not at issue here. As the chamber of commerce owns it
I am sorry I have to excuse my ignorance of the environment
the issue is really not at issue here. As the chamber of commerce owns it~~

T1230 follows

1230

The Chairman: If I might just answer—

Mr Newson: You will have to excuse my ignorance.

The Chairman: The ownership of the land is really not at issue here. If the corporation does not own it, it does not own it. There is nothing we can do about it. I do not want to get back into that, because we spent considerable time on that the last time. If they do not own it, they cannot use it; it is as simple as that. So if they acquire it through normal, proper channels, then they will be able to do what they want with it.

Interjection: But they do own it.

The Chairman: No, they do not.

Mr Morin-Strom: You had better ask them whether they own it. Our understanding is that they do own it.

Mr Freyseng: To clarify, the chamber of commerce of Tottenham and Beeton, whose president is here with a deed in his hand, is the registered owner of the title. There is a long-term lease to the South Simcoe Railway Heritage Corp. There are directors on the South Simcoe board who are specifically nominated and approved by the chamber of commerce.

Mr Morin-Strom: So it certainly raises questions about the conflict of interest of councillors who are members of the chamber of commerce.

The Chairman: Our position here is not to look into the inner workings of those councils. We are here to say whether this group is going to be incorporated or not.

Mr Freyseng: The reeve of the town of Tottenham is here. Perhaps he is the one who can say best of all whether there was a proper quorum that night.

The Chairman: That is irrelevant, in any event.

Mr Mackenzie: I am not sure we are not past the time, but it certainly does raise questions I would like to ask the person who took around the petition. I take it you took it around. In view of the fact that the people in the Beeton area who are alongside the tracks were not aware of the bill, period, what is your perception as to the support that is claimed as a result of the municipal letters we have? Were the people they are representing likely to have been any more knowledgeable of what was going on than the people you were canvassing on an individual basis?

Mr Newson: I can only speak for the people I talked to, and they were very unknowledgeable about the rail project and Bill Pr21.

Mr Mackenzie: Accepting that you may have used whatever biases you

Mr. Mackenzie

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had on it yourself, at least these 63 people knew what they were opposing.

Mr Newson: Yes.

Mr Mackenzie: I think there are some serious questions here.

Mr Newson: I made a point of putting on that petition the environmental issue and the other issues.

Mr Mackenzie: I suggest that this be stood down for another meeting, Mr Chairman.

The Chairman: For what purpose?

Mr Mackenzie: Number one, I am not sure what our procedures are in terms of continuing past 1230.

The Chairman: I understand the rules are that I need unanimous consent, and if I do not have unanimous consent, then this meeting will be adjourned. Is there unanimous consent? No.

I apologize to the ladies and gentlemen who have come here from some distance to deal with this matter. It will be on the agenda and will be dealt with as the first item next Wednesday.

The committee adjourned at 1232.



STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

SOUTH SIMCOE RAILWAY HERITAGE ACT, 1989

BOLSWARD INVESTMENTS LIMITED ACT, 1989

CENTRE CULTUREL D'ORLEANS ACT, 1989

LOI DE 1989 SUR LE CENTRE CULTUREL D'ORLEANS

WEDNESDAY 12 JULY 1989

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

CHAIRMAN: Furlong, Allan W. (Durham Centre L)
VICE-CHAIRMAN: Sola, John (Mississauga East L)
Black, Kenneth H. (Muskoka-Georgian Bay L)
Keyes, Kenneth A. (Kingston and The Islands L)
Leone, Laureano (Downsview L)
Mackenzie, Bob (Hamilton East NDP)
McCague, George R. (Simcoe West PC)
Miclash, Frank (Kenora L)
Morin-Strom, Karl E. (Sault Ste. Marie NDP)
Pollock, Jim (Hastings-Peterborough PC)
Smith, David W. (Lambton L)

Substitutions:

Epp, Herbert A. (Waterloo North L) for Mr Black
O'Neill, Yvonne (Ottawa-Rideau L) for Mr Keyes
Sterling, Norman W. (Carleton PC) for Mr McCague

Also taking part:

Ballinger, William G. (Durham-York L)
Morin, Gilles E. (Carleton East L)

Clerk: Freedman, Lisa

Staff:

Mifsud, Lucinda, Legislative Counsel

Witnesses:

From the South Simcoe Railway Heritage Corp:
Freyseng, John, Solicitor and Director

Individual Presentation:

Newson, H.

From Bolsward Investments Ltd:
Tetley, Peter, Solicitor

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 12 July 1989

The committee met at 1020 in committee room 1.

SOUTH SIMCOE RAILWAY HERITAGE ACT, 1989
(continued)

Consideration of Bill Pr21, An Act respecting South Simcoe Railway Heritage Corporation.

The Chairman: Mr Sterling is substituting for Mr McCague as a sponsor and again for the purposes of Hansard, Mr Freyseng is the solicitor.

Mr Freyseng: That is correct.

The Chairman: I understand we also have in the audience Mr Ellis and Mr Newson. Is that correct? As of the last meeting, I think on the last business on the agenda, Mr Ellis and Mr Newson had come up. I believe Mr Newson had made a presentation. Mr Newson, do you have anything further you want to add at this time? You will have to come up here please. I would like you to come up and sit in one of the chairs so we can get you on Hansard.

Mr Sterling: Mr W. B. Davis, the president of the South Simcoe Railway Heritage Corp, is also here.

The Chairman: Perhaps then, Mr Sterling, he could sit next to you.

Mr Newson, you had made some comments last week, and I believe we terminated with them. I think the members of the committee were asking you questions, but what I would like to do is that if you have any further comments you would like to make now, then I will open the floor to the committee for questions for you. Then we will go back to Mr Freyseng. If anything results from those conversations, we will come back to you and give you an opportunity to respond.

Mr Newson: I have nothing else to say right now, but I will if there are questions.

The Chairman: For the members who were here last week, are there any questions to Mr Newson? Mr Freyseng then, please.

Mr Freyseng: Good morning to the members of the committee. I understand it has been a long night and I will be as brief as possible.

First, I would like to say that after the conclusion of the meeting here at this committee, the last time we met, we approached Mr Newson and Mr Ellis to discuss the concerns. As a result of that discussion, there was a meeting that took place last Monday evening in the town of Tottenham. At that particular meeting, Mr Newson came representing those who have concerns. The deputy reeve of the village of Beeton attended, as did Councillor Ralf Klopff to discuss matters of concern. There was, I understand, a very good healthy discussion with Mr Davis, the president of the South Simcoe Railway Heritage Corp.

South Simcoe is very much aware of the concerns. There was a lot of discussion with respect to matters such as noise and vibration, the environmental concerns. There was some in-depth discussion on the quality of the operations, smoke control and all the rest of it. As a result of those discussions—I might add that I do not want to put words in Mr Newson's mouth—I think the tenor was that in principle there is not a serious objection; it is a matter of controlling these concerns.

As a result of that meeting, a number of things have taken place. First, the South Simcoe Railway Heritage Corp is prepared to give an undertaking not to operate steam-powered trains on a regularly scheduled basis. There will be the odd trip for testing or for display purposes, etc, past the homes of Messrs Newson, Anthony and Ellis until such time as the location of the northern terminus of the operation up in the village of Beeton is resolved. This is an interim measure, but the idea is that until such time as matters have been cleared away and it can go right past their property and right across the road and into the town of Beeton, there will not be any operation of the steam-powered locomotive past their yards.

The second thing is that a meeting has been arranged with the council of the village of Beeton on 25 July 1989. I believe Mr Newson has been invited, both in his personal capacity and as a representative of those people in the area who have concerns, and of course any other person who has concerns is invited as well, to discuss these concerns and to walk over the yard area with the representatives of the village of Beeton and South Simcoe and to hear the explanations of the needs of South Simcoe that would be required for a terminus in that area and to discuss the concerns with respect to same and the steps that might be taken to alleviate any of these concerns.

The last thing is that there was an operation last night over the line with three of the five members of council of the village of Beeton, including the reeve, and all of the members of the council, I think, of the town of Tottenham, including the reeve and the deputy reeve, who are both here today again, with the idea of familiarizing themselves with the line, the operation that might take place and what the concerns are and what we are concerned about, as our neighbours are concerned about.

I would like to say that before any operation can take place on this line, as we have stated earlier, we will have to appear before the Ontario Municipal Board. In our submission, that is the correct forum where all the concerns can be thrashed out. I just want you to know, though, that we are very much aware of them and the South Simcoe is certainly prepared to take all necessary steps to alleviate these concerns. That is all I have to submit.

The Chairman: Mr Newson, do you have anything to add to what Mr Freyseng has said or would you care to comment on anything that he said?

Mr Newson: No, I do not.

The Chairman: Is what he said generally correct? Are you satisfied that some progress is being made to alleviate your concerns?

Mr Newson: Yes.

The Chairman: You are aware that in addition to what he has already told you, there are still the requirements for environmental protection and transportation and those other things that were mentioned to you last week that they would have to comply with in order to run this line?

Mr Newson: I am.

The Chairman: All right. Are there any questions of Mr Freyseng or Mr Newson?

Mr Mackenzie: I am sorry for coming in late; there are a number of things going on around here. I take it that the efforts to arrange some sort of a meeting that was discussed at the end of the meeting last week have transpired?

Mr Freyseng: I did say in fact that last Monday evening there was a meeting with Mr Newson and the deputy reeve of the village of Beeton, a full discussion, and there is a further meeting taking place on 25 July with the council of the village of Beeton and all those who are concerned. Mr Newson has been asked to attend, both in his personal capacity and as a representative of those who had concerns, to go into all this.

Mr Mackenzie: And it was not what triggered my concern at the last meeting, a letter indicating there were only three people in opposition, so it showed support of the fact that there was a petition with 60 odd names on it? People are aware of it?

Mr Freyseng: People are aware of it. I forgot to add that I filed with the clerk this morning a petition with approximately 114 names of people in favour, just to give some indication that not everybody in the area is opposed to this matter.

Mr Mackenzie: The argument which concerned me was the counterargument, the letter that said there were only three people opposed to it earlier. That did not hold up when you took a look at the petition on this.

The Chairman: Again, just so that I can clarify that point, at the time that letter was written I think there were only three people who indicated objection to it. The petition came later, for the second meeting that we had over this issue, so it is true that there was a petition and it was noted.

Any further questions?

We are dealing with Pr 21, An Act respecting South Simcoe Railway Heritage Corporation.

Sections 1 to 9, inclusive, agreed to.

Preamble agreed to.

Title agreed to.

Bill ordered to be reported.

The Chairman: Thank you very much.

Mr Freyseng: Mr Chairman, thank you. I might say one thing. It has been a good demonstration of the importance of this committee, as far as I and my associates are concerned. The fact that this meeting took place and that the opposition—I do not want to call it that; that is the wrong term—our friends came along and expressed their very valid concerns I think has been a big step forward. Do not ever think you are not doing an important job.

The Chairman: Thank you very much for those comments, sir.

Mr Newson: I would like to make a closing remark, and that is that throughout the three meetings you probably heard it said that we have been "opposed" to the tourist train project. I would like to go on record here for the umpteenth time to say that it is not the project that we are opposed to, it is the environmental issues that we raised and the noise and vibration.

1030

The Chairman: I am sure, sir—I cannot say I am sure, but I certainly hope that all your fears are going to be alleviated.

Mr Newson: I hope so too.

The Chairman: The next item of business is Bill Pr20, An Act to revive Bolsward Investments Limited, sponsored by Mr Ballinger. Mr Ballinger, could you introduce the applicant, please?

BOLSWARD INVESTMENTS LIMITED ACT, 1989

Consideration of Bill Pr20, An Act to revive Bolsward Investments Limited.

Mr Ballinger: I would be pleased to do that, and considering you have been up all night, Mr Chairman, you pronounce that name very well. The gentleman on my right is Peter Tetley, who is the solicitor acting on behalf of the corporation.

The Chairman: Mr Tetley, do you have any representations to make on this bill?

Mr Tetley: Just briefly, this is a bill to revive Bolsward Investments Ltd, a company whose certificate of incorporation was cancelled by the Ministry of Consumer and Commercial Relations in March 1981 for want of corporate filings.

I can indicate that the reasons behind the cancellation and the failure to file the appropriate year-end filings stem largely from Mr Visser's matrimonial situation. He is the sole shareholder of this corporation and his wife was the bookkeeper, and apparently, during this period of time when they were having a falling out, she did not fulfil her obligations as a bookkeeper and I suppose he was not managing the shop.

Consequently, there was a failure to file. He did not become aware of the fact that his charter had been lifted, despite the publication of the notice in the Ontario Gazette and the notice that was sent to his home. Again, these responsibilities, I am advised, largely fell to his wife.

Since we became aware of the cancellation of the charter last year, the corporate filings have been made and I have confirmation that filings for the years 1982 through 1988 were made to the Ministry of Revenue on 1 June 1989.

I do not believe there is any opposition from any of the ministries. The only concern was with respect to proof that the documents had been filed and the corporate filing had been brought up to date, and that has been done.

The Chairman: It is my understanding that all of the filings have been completed and there is no opposition.

Mr Mackenzie: I am just curious, one, as to the nature of the business and, two, is there any reason why, since the charter was cancelled in 1981, it took this long before there was an attempt to apply for a new charter or to have it revived, when I gather from the note here that within a couple of years you were aware that the charter had expired?

Mr Tetley: With respect to the first question, I understand that he uses this corporation for personal investments of a real estate nature. With respect to the second question, we became aware of the cancellation of the charter in the summer of 1988. I think the reason for the delay in trying to reactivate the company stems largely from the fact that the senior partner in our firm was ill most of the fall and has just recently returned to work this spring. I think that is the reason.

Mr Epp: I have one concern: that steps have been taken to ensure that this is not going to occur again.

Mr Tetley: No. I think the most positive step is that he has now retained a chartered accountant to handle his annual filing. That was not the case before.

Mr Epp: Because, from my own experience, I know these things can occur; it never occurred to me, but I know that it can easily occur, if you have a company. You have to take steps to make sure that it does not occur in the future, that is all.

Mr Tetley: I think two things have happened beyond the hiring of the chartered accountant. He now has a new wife who I think is minding the books.

Mr Epp: Boy, this is an expensive change.

The Chairman: It is an expensive proposition. Mr Polsinelli has a question.

Mr Polsinelli: Just out of curiosity, can you tell me whether this company has filed its annual income tax return and whether it has any physical assets?

Mr Tetley: The returns that I have indicate that there are some assets. They are substantial in value, and I understand that the income tax return has been filed.

Mr Polsinelli: For every year from 1981 to the present?

Mr Tetley: Yes, from 1982 to 1988.

Mr Polsinelli: Thank you.

The Chairman: Are there any further questions?

Mr D. W. Smith: I imagine that is just a letter "c" left out of the word "contract," if my eyes are still working.

The Chairman: Yes, it has been brought to the attention of counsel, thank you, and it will be appropriately corrected.

Fine, we are dealing with Pr20, An Act to revive Bolsward Investments Limited. Shall sections 1 through 3 carry?

Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Title agreed to.

Bill ordered to be reported.

Mr Sterling: Can I just ask a question?

The Chairman: It is really out of order.

Mr Sterling: Did they hold any mortgages or did they give any mortgages?

Mr Tetley: I do not think so. I think it was primarily servicing the investments he had already made.

CENTRE CULTUREL D'ORLEANS ACT, 1989

LOI DE 1989 SUR LE CENTRE CULTUREL D'ORLEANS

Consideration of Bill Pr6, An Act respecting the Centre culturel d'Orléans.

Etude du projet de loi Pr6, Loi de 1989 concernant le Centre culturel d'Orléans.

The Chairman: Mr Morin, would you introduce the applicants, please.

Mr Morin: To my left is Gérald Poulin, who is the president of le Mouvement d'implication francophone d'Orléans, and to my right is Roger Beaudry, who is the legal adviser to the corporation.

Perhaps I should give a bit of background about Orléans and also about the organization itself. Orléans is an Ottawa suburb located partly in the city of Gloucester and partly in the township of Cumberland. Jean Poirier is my colleague in the next-door riding.

Originally a small town, it has, in the last 10 years, experienced a population explosion due to residential land development which has striven to meet an increasing demand for Ottawa commuter residential units. Orléans is one of the two areas in the Ontario part of the national capital region which is identifiable as having a strong francophone population. The most recent information available numbers the population of Orléans at about 52,000, with about 32 per cent of it being francophone.

In 1979, a group of citizens concerned about the preservation and advancement of the French language and culture formed le Mouvement d'implication francophone d'Orléans. One of its main objectives was the following: to work on setting up a cultural centre so as to provide the community with a cultural program, courses and workshops, preschool education programs and an art gallery.

The city of Gloucester was quick to recognize the importance and merits of the project. On 4 September 1984, it provided the land on which the centre could be and ultimately was built via a 50-year lease to MIFO. Construction of the centre began on 13 October 1984, and in September 1985, the Centre

culturel d'Orléans opened its doors to the public. The Centre culturel d'Orléans can now only be described as the hub of francophone and francophile activity in Orléans.

This centre is presently facing a financial crisis. If this bill is not passed, it may have to close its doors. Not only would it be a loss for the community but it would also be a loss for the province, so I would ask your full support in obtaining tax exemption for this organization.

The Chairman: Thank you. Are there questions?

Mr D. W. Smith: Just to get a little clarification here, did you say this was partly in Gloucester and partly in—

Mr Morin: In the township of Cumberland. That is right.

1040

Mr D. W. Smith: So both municipalities have agreed to—

Mr Morin: No, but the centre itself is in the city of Gloucester.

Mr D. W. Smith: Okay. Is the municipality in favour?

Mr Morin: Very much so, and so is the regional government. It is an excellent centre.

Mr D. W. Smith: If we do this, give you the exemption on taxes, will that save the centre?

Mr Morin: There is no doubt about it. It will.

Mr D. W. Smith: That is all it takes?

Mr Morin: I will leave it to Mr Beaudry to give further explanation as far as that situation is concerned.

Mr Beaudry: The reality of matters as they stand right now is that the arrears amount to close to \$100,000 and the Centre culturel d'Orléans cannot even afford to pay the interest on the debt. Taxes amount to about \$20,000 to \$25,000 a year. For the past few years they have been running a deficit of about \$15,000, not counting the tax liability.

From their perspective, they feel there are only two possibilities. First, there has to be some sort of government aid, either via a tax exemption or some other method, or they are just going to have to close their doors. If they do close their doors, I assume the only thing that would happen is that the city would have to take over the running of the centre, because it is not the sort of thing I imagine it would allow to close, and then it would become a burden for the taxpayers.

Mr Mackenzie: I notice that an amendment was passed around. Will there be such an amendment moved in this bill?

The Chairman: Yes, at the appropriate time.

Mr Sterling: What consultation has taken place with the three different school boards?

Mr Beaudry: With regard to the relevant school board, the French school board, the school board the centre pays its taxes to, we consulted it at an early date, we advised it of what we were doing, we sent it a copy of the bill, we asked it for its comments and we asked it for a resolution supporting us. The president and their representatives told us they were quite supportive of us. They did not feel there was any way they could deny us a resolution, given the role we have played in the francophone community and that we were dealing with a francophone board. Unfortunately, because we are in the summer, they were not able to pass the resolution on time for today.

Mr Sterling: It is a bit of a problem in that it has been my understanding that we have always asked the school boards involved. Now, with the taxation situation changing with regard to school boards, I think the committee should have, in a formal sense—These taxes will be shared among all school boards if the situation as proposed by the Treasurer (Mr R. F. Nixon) in his budget goes through. I wonder what kind of consultation will have to take place on these in the future. I realize it is a difficult situation.

The Chairman: I do not know the answer to your question. Two things: First, the act is not a mandatory thing; it is discretionary. It says they "may" pass bylaws exempting them and I assume they will consult with the school board before they do that. Second, it is my understanding that the land is already owned by the municipality. Is that correct?

Mr Beaudry: That is correct.

Mr Sterling: One of the problems is that by passing this we take it out of the hands of the school board and put it in the hands of the city of Gloucester to make a decision about the revenues the school board may have been entitled to receive.

Mrs O'Neill: May I ask Mr Sterling what he means by it will be directed to all school boards in the area? I understand that this cultural centre would be directing its taxes totally to the French-language school board.

Mr Sterling: I am not sure how the pooling arrangement is going to work out under the new laws, whether or not that is going to be determined. For instance—

Mrs O'Neill: The whole region for the area of the French-language school board is the Ottawa-Carleton region.

Mr Sterling: Yes, but what I am saying is that each building may in fact have a portion of its taxes going to the francophone board, a portion of its taxes going to the Carleton Roman Catholic Separate School Board and a portion of its taxes going to the Carleton Board of Education.

Mrs O'Neill: I do not think so.

Mr Sterling: I understood that under the new law, it was going to be no longer a choice for commercial buildings.

Mrs O'Neill: As you know, commercial and industrial assessment can now be accessed by both public and separate school supporters, and that will be done according to the regulations for francophones only. I would presume if there was ever a place where francophones only would have any access to taxes, it would be in this particular instance.

Mr Sterling: I do not doubt what the situation is now. I do not know how the government is going to deal with the pooling. I would imagine the francophone board would want pooling or would want to be part of the pooling equation.

Mrs O'Neill: They are. I do not understand what you are saying.

Mr Sterling: If I own a commercial building in the city of Gloucester and pooling comes in and I pay \$100 a year in taxes, it may be that the francophone board will receive \$3, the Roman Catholic school board will receive \$43, and the public school board will receive \$54.

Mrs O'Neill: Not under the legislation and the budget that have been passed by this government.

Mr D. W. Smith: If you lose on the taxation end with the assessment, you will get a grant from the province on the other end and it will be a balancing out.

Mrs O'Neill: We will have to solve this argument some other time.

The Chairman: I do not think that discussion is particularly relevant. Mr Beaudry, you had a comment you would like to make on this?

Mr Beaudry: The only comment I would like to make is that at this time we are liable to pay our taxes to the French school board. There is no doubt about that. As a matter of fact, we have a letter here from the school board thanking us for having elected to pay to it.

The Chairman: Are there any further questions? Seeing none, we will deal with Bill Pr6, An Act respecting the Centre culturel d'Orléans/Projet de loi Pr6, Loi concernant le Centre culturel d'Orléans. I understand there is an amendment to section 1.

Section/article 1:

The Chairman: Mrs O'Neill moves that section 1 of the bill be amended by adding thereto the following subsection:

"(3) An exemption granted under subsection (1) does not apply in respect of any portion of the land used for commercial purposes."

Motion agreed to.

Section 1, as amended, agreed to.

L'article 1, modifié, est adopté.

Sections 2 to 5, inclusive, agreed to.

Les articles 2 à 5, inclusivement, sont adoptés.

Preamble agreed to.

Le préambule est adopté.

Schedule agreed to.

L'annexe est adopté.

Title agreed to.

Le titre est adopté.

Bill, as amended, ordered to be reported.

Le projet de loi, modifié, devra faire l'objet d'un rapport.

The Chairman: Sorry. We have another motion, I understand.

Mrs O'Neill moves that the committee recommend that the fees, and the actual cost of printing at all stages and in the annual statutes, be remitted on Bill Pr6, An Act respecting the Centre culturel d'Orléans/Projet de loi Pr6, Loi concernant le Centre culturel d'Orléans.

Motion agreed to.

La motion est adoptée.

ORGANIZATION

The Chairman: Members of the committee, we have two other small items on the agenda, not on the main agenda. When you were sent your information, you would have noticed there were two things on it. One was a suggestion for a change in our policy dealing with such things as revivals where people sometimes come long distances to this committee. It has become a very costly affair.

The question was put was: If there are no objections to bills such as the revival bills, does the applicant need appear? After the documents had gone out to you some discussion took place between the clerk and myself. She has a suggestion to make. I will turn it over to her, she can tell you what it is and we can discuss it briefly.

Clerk of the Committee: What has occurred since this has gone out is that some other things have been brought to my attention, policy things that the committee may want to consider changing. One would be the way the compendiums are distributed to the committee, perhaps a suggestion for making the information more compact for the members.

The next is to look at the notice period. Currently it is five days' notice for bills that will be appearing. There have been suggestions over the last few years to extend that period to two weeks.

Another thing we may want to look at is: Should there be a deadline for objections? On public bills, generally objectors have to get their objections filed by a certain date. Currently we could have a situation where an applicant comes before the committee and an objector could walk in at that moment and place his or her objections before the committee.

What has been discussed is possibly looking at all these issues over the summer and reporting back to the committee at the first meeting in the fall.

The Chairman: Does that sound like a reasonable suggestion? Fine. Is the clerk directed to prepare that report for us for our next meeting? Agreed.

The next and final item on the agenda is one dealing with the committee's previous report. For identification, I will call it the Fleet

report. Enclosed in your information package were some comments by David Fleet, the former chairman of this committee, outlining some of his concerns and comments on the report and on government response and making some suggestions that the committee might follow.

We mentioned briefly the response to the report some time ago. I would like to hear the suggestions or proposals of committee members and I suppose the individual caucuses of how we want to deal with this. I would like this to be on the agenda, as well as the other suggestions for policy changes, at our first meeting when we come back. If you would be so kind as to consider the government response to the Fleet comments, I will be looking for direction as to what you want to do with that report at the next meeting.

The committee adjourned at 1051.

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

CITY OF TORONTO ACT, 1989

WEDNESDAY 19 JULY 1989



STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

CHAIRMAN: Furlong, Allan W. (Durham Centre L)

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Mackenzie, Bob (Hamilton East NDP)

McCague, George R. (Simcoe West PC)

Miclash, Frank (Kenora L)

Morin-Strom, Karl E. (Sault Ste. Marie NDP)

Pollock, Jim (Hastings-Peterborough PC)

Smith, David W. (Lambton L)

Substitution:

Reville, David (Riverdale NDP) for Mr Mackenzie

Also taking part:

Kanter, Ron (St. Andrew-St. Patrick L)

Clerk: Freedman, Lisa

Witnesses:

From the City of Toronto:

Peddie, Dr Richard, General Manager, Land Development, Housing Department

Foran, Pat, Deputy City Solicitor

Eggleton, Art, Mayor

From the Ministry of the Attorney General:

Offer, Steven, Parliamentary Assistant to the Attorney General (Mississauga North L)

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 19 July 1989

The committee met at 1033 in room 1.

CITY OF TORONTO ACT, 1989

Consideration of Bill Pr32, An Act respecting the City of Toronto.

The Chairman: The committee will come to order. We have for consideration this morning Bill Pr32, An Act respecting the City of Toronto, sponsored by Mr Kanter. Mr Kanter, could you come forward and introduce your delegation, please?

Mr Kanter: With me are Pat Foran, deputy city solicitor of the city of Toronto, and Richard Peddie, who is the general manager, land development at city hall.

Mr Chairman, first I want to thank you, your clerk Lisa Freedman, all members of all parties who are here today and members of ministry staff. This private bill has come on extremely quickly. From the time I was notified on Friday afternoon—there was some urgency to this matter—until this morning, there have been extraordinary efforts shown by virtually everyone in this room to get this bill on at this point. I want to very sincerely thank everyone for allowing the bill to come forward as quickly as it did.

The sum of the bill, as I understand it, is to allow one substantial development to proceed in the city of Toronto, a joint venture just east of the St Lawrence market which will include a substantial amount of social housing and also a substantial payment to the city of Toronto. To further describe the bill, it would be appropriate to have the two representatives of the city of Toronto here describe the bill in its details. I also understand there will be two tactical amendments to the bill. I will now turn it over to the deputants, Ms Foran and Mr Peddie, to describe the bill in greater detail.

Ms Foran: The city's application today involves a very technical amendment to the city's housing legislation. The city's housing legislation was passed in 1975 and is set out in the explanatory note to the bill. Under the city's 1975 legislation, the city cannot joint venture for a housing project if the land upon which the housing project is to be built was expropriated.

The city has a housing project that it is ready to proceed. Mr Peddie can give you all the details of that project. Unfortunately, at a rather late date in the process, it was discovered that part of the lands, about a quarter of the site, had been expropriated for parking purposes in 1965. It has been held by the city since 1965 and is now going to be part of the housing project.

The city did apply for a general repeal of the provision. However, after negotiations with the Minister of Housing and the Ministry of Municipal Affairs, it was agreed that at this time we would proceed with a site-specific bill that would apply only to the one site, and then we can deal with the rest of the amendments later on.

This is what this bill does. It relates only to about half an acre in the project. The project itself is about two and a half acres. It is a specific bill. The lands described are the whole of the project. It would provide that we could proceed with this project notwithstanding that part of the lands were expropriated. We will be joint-venturing it; that is the process.

The Chairman: I welcome His Worship Mayor Eggleton. Welcome to the committee.

Mayor Eggleton: I am sorry I could not be here at the beginning.

The Chairman: That is all right. We will carry on and if you have something to add, you can chip in.

Ms Foran: Perhaps the mayor wishes to describe what the project is; it is a rather exciting project in downtown Toronto.

Mayor Eggleton: It is one of the last remaining pieces of land in the St Lawrence neighbourhood, which the city developed in the 1970s from what was formerly underutilized industrial lands. This particular project, in a block I think many of you will be familiar with—Jarvis Street, Front Street, George Street and the Esplanade—will be a mixed development that we are doing in joint venture with the Esplanade Development Corp, which was chosen from among 11 development firms that bid on the project.

I do not know how much of this has been covered. I am sorry if any of it is repetitive.

There will be 100 units of nonprofit housing under the jurisdiction of Cityhome, for which there has been an allocation from the ministry under the Homes Now program. There will be 450 units of condominiums, including, you will be interested to know, a 25 per cent guideline on affordable units. There will be 90,000 square feet of retail; that has been scaled down substantially in concert with the St Lawrence Market vendors, with whom this has been discussed. There will be some 990 parking spaces, approximately 400 for public use, which would replace the surface parking. Most of you will be familiar with it as a surface parking lot that exists there now.

The proceeds from this put the St Lawrence neighbourhood project into the black. It also provides for the city's share of this joint venture transaction being in excess of \$30 million. The proceeds to the city will go into the revolving fund for land banking, so all the proceeds will be used to create more nonprofit units in other places of the city. It could produce some thousand units of nonprofit housing elsewhere.

It is an appropriate development for the site. It helps to finish off the St Lawrence neighbourhood and put it into the black, and provide not only for assisted rental housing onsite but at the same time the proceeds go into a fund for housing in other places.

The Chairman: Before I turn it over to the committee, there are a couple of points I think I should make. For purposes of the members of the committee, you have a compendium with your material. The compendium may be somewhat misleading in the sense that it seems to be all-encompassing. The bill has been scaled down from what it was originally to be site-specific. It will apply only to this site and will not give authority to any other site within the city. The problem, of course, is that if you are dealing with

expropriated land for joint ventures with the private sector, there is a principle that would be of some concern.

I also want committee members to know that they should be concerned in deliberating on this that there is no precedent for this type of legislation and we perhaps could be considering one now.

Perhaps we should could get the government's response.

Mr Offer: I have with me representatives of the Ministry of Municipal Affairs and the Ministry of Housing. There is no objection to this piece of legislation on the basis, first, that it is site-specific and, second, applies to a very specific project, the particulars of which have already been indicated by the mayor and Ms Foran.

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Mr Reville: Perhaps the mayor or Dr Peddie can answer this question. Some time ago, city council allowed a school portable to be erected on part of that site. What will become of this school?

Dr Peddie: There are several school portables leased to St Michael's school, which is directly across the street on the south side of the Esplanade. These portables were destined to be taken away when Market Lane School moves out of the same building into its new premises. As Mr Reville knows, there is a bit of time gap there. Market Lane School is still being constructed.

We have offered two sites close by to St Michael's and it is considering both of them at this point: one on what we call the C2 site at Church and the Esplanade, and the other on the Ontario Hydro site, which has just been consolidated midway along the Esplanade on the south side close to Sherbourne. There are two alternatives very close by.

Mr Reville: I do not have any other questions. Maybe other members of the committee have. I would like to make a statement at some point.

Mr Keyes: I just wanted to echo the concern of the principle at stake here. To my way of thinking, it is a bit inappropriate under normal circumstances to allow building on expropriated land. I think that is one we must be very careful of.

In the compendium as we have it, the very last paragraph seems to indicate it. I understand it will be corrected by either the submission of a new compendium or an amendment to this one that it is not intended to remove for all time that protection a private person or company has, whose land might be expropriated. Particularly when you are working in a joint venture with the private sector and the city, the removal of such protection is of dubious benefit.

I know the project and support the project and support this in committee, on the basis that we are not setting a precedent here in general terms but are working on a site-specific issue. I understand the amount is fairly significant, a quarter of the site, but our protection as a committee I believe rests in the fact that it is site-specific and, therefore it will not be construed as a general policy or the removal of that protection that is in the current act.

I think we should all be cognizant of that as we all support the development from the standpoint of the new, much-needed nonprofit housing that will be provided on the site for the city.

Mr D. W. Smith: Because you have said this is precedent-setting legislation—I do not know whether I ask this of Mr Offer or whether the Toronto people want to answer it. Do you feel this could be costly for the government in the long run or do you see this as a real boon to getting housing going on the right track again? Just where do you see this going from this point on?

The Chairman: Is that question being put to Mr Offer?

Mr D. W. Smith: He may want to address that or some other people might want to as well.

Mr Offer: First, I would reiterate that this particular legislation is site-specific to an important project in terms of housing in the city. On the cost implications, I have conferred with a representative of the Ministry of Housing and they do not see any such type of cost implication, as you have indicated in your question.

Mr D. W. Smith: But there have been no in-depth studies of what might happen if more municipalities were to take this approach in future? You have not gone into any real in-depth studies, I guess?

Mr Offer: There has not been any in-depth study on this type of arrangement, but we must remember with respect to this particular legislation that we are dealing with a very site-specific project and a very specific project, as indicated by the deputants.

Mr Reville: It is interesting for the members of the committee to know that this parcel of land was expropriated about 25 years ago for parking purposes. That is something the city has done on a number of occasions.

The point that should concern the committee is that expropriation should be for public purposes. The danger of this is that private venture is involved. That is where the issue lies. No one would want to interfere with the principle of protecting ownership of land unless there is a bona fide public purpose in interfering with the ownership of land. That, of course, is not a socialist position but a fairly common position held in this country.

In this case, it involves land that had been used in the interim for parking. It is part of a plan that had been developed over a number of years for the St Lawrence area, and this will complete about the last piece of the puzzle.

To the extent that this is specific to this situation, I think the precedent is not a scary one for the committee. It does not have any cost implications for the province. It might, however, suggest that expropriation could be for other purposes in the future, and we will have to be careful of that. I suspect there will be plenty of property owners who will make us be careful of that.

The city of Toronto, through the council and through its own housing company, Cityhome, has over the years invented a number of creative methods of getting social housing on line. It has done some joint ventures before that have been successful. I think this is a good project. I should say that I

would have preferred it if the city had hung on to the ownership of the land, but that is a view which was not shared by the majority of council. I think the committee would do well to support this legislation today.

Mr McCague: I understand that there is the same amount of public parking being provided in the development as presently exists.

Dr Peddie: That is correct.

Mr McCague: I think it was mentioned that there were 11 developers considered for this proposal and that a choice has been made. Has there been any controversy at all in the choice that was made?

Mayor Eggleton: Not in the choice of the developer, but in some aspects of the project we asked for some redesign and reconfiguration. The retail, for example, was originally much higher. The merchants at St Lawrence Market were concerned about that, so we reduced the retail. There has been modification to it.

Mr McCague: The word "developer" has come up the odd time around Queen's Park in recent months and years. I guess there is some reason for a member of provincial Parliament to be a bit shy when some of these things come up. I guess I will put the awkward question. We are not being asked to approve something here which anybody can envisage a problem with a short distance down the street, as far as developers are concerned?

Mayor Eggleton: I do not see it, no.

Mr McCague: That is coming from a reasonably good authority.

Mayor Eggleton: But who knows?

Mr D. W. Smith: I do not know what Mr McCague was driving at there other than that he wanted to bring out that word "developer." You did say, Mayor, that there were 11. Does that mean that there were 11 tenders for this project?

Mayor Eggleton: Yes. It was a proposal-call basis and that is what we had, 11 firms that bid.

Mr D. W. Smith: Invitation only or was it publicly advertised?

Dr Peddie: It was publicly advertised.

Mayor Eggleton: Publicly advertised, yes.

The Chairman: Are there any further questions? Seeing none, we will put the question. We are dealing with Bill Pr32, An Act respecting the City of Toronto. I understand there is an amendment to section 2. Shall section 1 carry?

Section 1 agreed to.

Section 2:

The Chairman: Mr Keyes moves that section 2 of the bill be amended by inserting after "to" in the second line "the land or."

Motion agreed to.

Section 2, as amended, agreed to.

Section 3:

The Chairman: Mr Keyes moves that section 3 of the bill be amended by inserting after "to" in the second line "the land or."

Mr Keyes: It is the same as the amendment we made in section 2.

Motion agreed to.

Section 3, as amended, agreed to.

Sections 4 and 5 agreed to.

Preamble agreed to.

Schedule agreed to.

Title agreed to.

Bill, as amended, ordered to be reported.

The Chairman: Thank you very much. It will be reported this afternoon.

Mr Kanter: Mr Chairman, if I might add one other thing to my earlier thanks to all members of the committee and staff, legislative counsel Don Revell and Cindy Mifsud were extremely helpful in the expeditious preparation of this legislation. I would just like to add that to the record.

Mayor Eggleton: My thanks as well, Mr Chairman, to you and the committee.

The committee adjourned at 1051.



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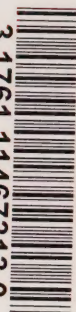


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